

Senate Bill No. 809

CHAPTER 521

An act to amend Sections 102, 15101, 15103, 15104, and 15105 of the Fish and Game Code, to amend Sections 10106 and 10107 of the Public Contract Code, to amend Sections 2003, 2006.5, 2201, 2202, 2204, 2205, 2207, 2207.2, 2209, 2210, 2701, 2702, 2703, 2707, 2714, 2715.5, 2716, 2717, 2759, 2770, 2772, 2772.1, 2772.6, 2773.1, 2773.1.5, 2773.3, 2773.4, 2774, 2774.1, 2774.2, 2774.4, 2777.3, 2777.5, 2778, 2796.5, 2814, 3008, 3100, 3103, 3104, 3160, 3215, and 8301 of, to amend the heading of Chapter 2 (commencing with Section 2200) of Division 2 of, and to repeal Section 2010 of, the Public Resources Code, and to amend Section 9853 of the Vehicle Code, relating to natural resources.

[Approved by Governor October 5, 2017. Filed with
Secretary of State October 5, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 809, Committee on Natural Resources and Water. Natural resources.

(1) The California Constitution establishes the 5-member Fish and Game Commission, with members appointed by the Governor and approved by the Senate. Existing statutory law requires the commissioners to annually elect one of their number as president and one as vice president, by a concurrent vote of at least 3 commissioners. Existing law prohibits a president or vice president from serving more than 2 consecutive years.

This bill would eliminate this prohibition.

(2) Existing law requires the owner of an aquaculture facility to register certain information with the Department of Fish and Wildlife by March 1 of each year, and requires the department to impose prescribed fees for registration and renewal. Existing law also requires, in addition to the registration and renewal fees, a surcharge fee to be paid at the time of registration by the owner of an aquaculture facility if the gross annual sales of aquaculture products of the facility during the prior calendar year exceed \$25,000. Existing law imposes a penalty for delinquent payment of fees. Existing law, until January 1, 2018, increases those registration, renewal, surcharge, and penalty fees, as prescribed. Existing law requires the department to prepare and submit to the Legislature, on or before February 1, 2017, a report regarding the aquaculture program.

This bill would extend the increased registration, renewal, surcharge, and penalty fees until January 1, 2023. The bill would require the department to prepare and submit to the Legislature an additional report regarding the aquaculture program due on or before February 1, 2022.

(3) The State Contract Act requires projects that are not under the jurisdiction of specified departments to be under the charge and control of

the Department of General Services. Under existing law, the Division of Boating and Waterways is one of the specified agencies whose projects are under its jurisdiction instead of the jurisdiction of the Department of General Services.

This bill would remove the Division of Boating and Waterways, and would add the Department of Parks and Recreation, as a department whose projects are under its jurisdiction.

(4) Under existing law, the Department of Conservation is under the supervision of the Director of Conservation, and the work of the department is divided into divisions, including the Division of Mine Reclamation and the California Geological Survey. Existing law establishes the Supervisor of Mine Reclamation to direct the Division of Mine Reclamation.

The Surface Mining and Reclamation Act of 1975 prohibits a person, with exceptions, from conducting surface mining operations unless, among other things, a permit is obtained from, a specified reclamation plan is submitted to and approved by, and financial assurances for reclamation have been approved by, the lead agency for the operation of the surface mining operation.

This bill, for the purposes of the act, would transfer various duties assigned to the Director of Conservation to the Supervisor of Mine Reclamation, as specified, and would transfer various duties assigned to the Department of Conservation to the Division of Mine Reclamation, as specified.

This bill also would make various conforming changes.

(5) Under existing law, the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation regulates the drilling, operation, maintenance, and abandonment of oil and gas wells in the state. Existing law defines, among other things, “active observation well,” “idle well,” and “long-term idle well” for the purposes of provisions relating to the regulation of oil and gas. Existing law, for purposes of regulating oil and gas activities, divides the state into 6 districts, the boundaries of which are fixed by the Director of Conservation. Existing law requires the State Oil and Gas Supervisor to appoint a chief deputy and at least one district deputy for each district and to prescribe their duties.

This bill instead would require the director to fix the number and boundaries of the districts, and would authorize the director and supervisor to redefine the districts as needed to ensure the efficient administration of provisions regulating oil and gas. The bill would require the director and supervisor to solicit public input before revising the districts. The bill would narrow the definitions of “idle well” and “long-term idle well” by excluding active observation wells from those definitions. The bill would revise the qualifications for the chief deputy and each district deputy. The bill would change the reporting date for a comprehensive report on well stimulation treatments in the exploration and production of oil and gas resources in California that is prepared by the State Oil and Gas Supervisor and transmitted to the Legislature from on or before January 1 to on or before July 30 of each year. The bill would delete obsolete provisions regarding the creation of a certain Internet Web site by the division.

(6) Existing law vests with the State Lands Commission control over certain public lands in the state. Existing law authorizes the Governor, on application therefor by a duly authorized agent, to convey to the United States a tract of land that does not exceed 10 acres, belonging to the state and covered by navigable waters, for the site of a lighthouse, beacon, or other aid to navigation.

This bill would instead authorize the commission to make that conveyance of land for the site of a lighthouse, beacon, or other navigation aid.

(7) Existing law requires every undocumented vessel using the waters or on the waters of this state to be currently numbered. Existing law requires the owner of each vessel requiring numbering to file an initial application for a number and to pay to the Department of Motor Vehicles an initial application fee of \$9, except that an owner of a vessel registered outside of this state who is submitting an application for registration in this state is required to pay a fee of \$37.

This bill would eliminate the \$37 application fee for registering a vessel in this state that is registered outside of this state.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature that members of the Fish and Game Commission endeavor in their annual election of officers pursuant to Section 102 of the Fish and Game Code to provide reasonable opportunities for all commissioners to serve as president and vice president in order to ensure that commissioners serving as president and vice president reflect the different perspectives of the membership of the commission.

SEC. 2. Section 102 of the Fish and Game Code is amended to read:

102. (a) The commissioners shall annually elect one of their number as president and one as vice president, by a concurrent vote of at least three commissioners.

(b) The president or vice president may be removed from the position of president or vice president by a vote, at any time, of at least three commissioners.

(c) In the event of a vacancy in either the position of president or vice president, the commission shall fill that vacancy at the next regularly scheduled meeting of the commission. The elected successor president or vice president shall serve for the unexpired term of the predecessor until the annual election pursuant to subdivision (a).

(d) The commission may not adopt or enforce a policy or a regulation that provides for the president and vice president to be chosen by seniority nor may the commission adopt or enforce any other policy or regulation that would make a commissioner ineligible to be elected as president or vice president of the commission.

SEC. 3. Section 15101 of the Fish and Game Code, as added by Section 3 of Chapter 301 of the Statutes of 2012, is amended to read:

15101. (a) The owner of each aquaculture facility shall register all of the following information with the department by March 1 of each year:

- (1) The owner's name.
- (2) The species grown.
- (3) The location or locations of each operation or operations.

(b) The department may provide registration forms for this purpose, may establish a procedure for the review of the information provided to ensure that the operation will not be detrimental to native wildlife, and shall impose a registration fee of eight hundred dollars (\$800) to recover the cost of reviewing new registrations. For renewing registrations, the department shall impose a registration fee of five hundred dollars (\$500). It is unlawful to conduct aquaculture operations or to culture approved species of aquatic plants and animals unless registered under this section. The registration fees specified in this section are applicable to the 2013 registration year and shall be adjusted annually thereafter pursuant to Section 713.

(c) The annual registration of information required by subdivision (a) is not a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(d) This section shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2023, deletes or extends that date.

SEC. 4. Section 15101 of the Fish and Game Code, as amended by Section 2 of Chapter 301 of the Statutes of 2012, is amended to read:

15101. (a) The owner of each aquaculture facility shall register all of the following information with the department by March 1 of each year:

- (1) The owner's name.
- (2) The species grown.
- (3) The location or locations of each operation or operations.

(b) The department may provide registration forms for this purpose, may establish a procedure for the review of the information provided to ensure that the operation will not be detrimental to native wildlife, and shall impose a registration fee of five hundred forty-nine dollars (\$549) to recover the cost of reviewing new registrations. For renewing registrations, the department shall impose a registration fee of two hundred seventy-five dollars (\$275). It is unlawful to conduct aquaculture operations or to culture approved species of aquatic plants and animals unless registered under this section. The registration fees specified in this section are applicable to the 2004 registration year and shall be adjusted annually thereafter pursuant to Section 713.

(c) The annual registration of information required by subdivision (a) is not a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(d) This section shall become operative on January 1, 2023, at which time the registration fees specified in this section shall be adjusted pursuant to subdivision (b) as if this section had not been inoperative.

SEC. 5. Section 15103 of the Fish and Game Code, as added by Section 5 of Chapter 301 of the Statutes of 2012, is amended to read:

15103. (a) In addition to the fees specified in Section 15101, a surcharge fee of six hundred dollars (\$600) shall be paid at the time of registration by the owner of an aquaculture facility if the gross annual sales of aquaculture products of the facility during the prior calendar year exceed twenty-five thousand dollars (\$25,000).

(b) Each owner of a registered aquaculture facility shall maintain sales and production records that shall be made available upon request of the department to assist the department in the administration of this chapter.

(c) Any person who fails to pay the surcharge fee required in this section at the time of registration shall be assessed a delinquency penalty pursuant to Section 15104.

(d) The surcharge imposed pursuant to this section shall be applicable to the 2013 registration year and shall be adjusted annually thereafter pursuant to Section 713.

(e) This section shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2023, deletes or extends that date.

SEC. 6. Section 15103 of the Fish and Game Code, as amended by Section 4 of Chapter 301 of the Statutes of 2012, is amended to read:

15103. (a) In addition to the fees specified in Section 15101, a surcharge fee of four hundred twelve dollars (\$412) shall be paid at the time of registration by the owner of an aquaculture facility if the gross annual sales of aquaculture products of the facility during the prior calendar year exceed twenty-five thousand dollars (\$25,000).

(b) Each owner of a registered aquaculture facility shall maintain sales and production records that shall be made available upon request of the department to assist the department in the administration of this chapter.

(c) Any person who fails to pay the surcharge fee required in this section at the time of registration shall be assessed a delinquency penalty pursuant to Section 15104.

(d) The surcharge imposed pursuant to this section shall be applicable to the 2004 registration year and shall be adjusted annually thereafter pursuant to Section 713.

(e) This section shall become operative on January 1, 2023, at which time the surcharge fee specified in this section shall be adjusted pursuant to subdivision (d) as if this section had not been inoperative.

SEC. 7. Section 15104 of the Fish and Game Code, as added by Section 7 of Chapter 301 of the Statutes of 2012, is amended to read:

15104. (a) If any person engages in the business of aquaculture, as regulated under this division, without having paid the registration fee or surcharge fee within one calendar month of the commencement of business, or, for renewal of registration, on or before April 1 of the registration year, the fees are delinquent.

(b) A penalty shall be paid at the time of registration for any fees that are delinquent in the amount of one hundred fifty dollars (\$150).

(c) The penalty imposed pursuant to subdivision (b) shall be applicable to the 2013 registration year, and shall be adjusted thereafter pursuant to Section 713.

(d) This section shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2023, deletes or extends that date.

SEC. 8. Section 15104 of the Fish and Game Code, as amended by Section 6 of Chapter 301 of the Statutes of 2012, is amended to read:

15104. (a) If any person engages in the business of aquaculture, as regulated under this division, without having paid the registration fee or surcharge fee within one calendar month of the commencement of business, or, for renewal of registration, on or before April 1 of the registration year, the fees are delinquent.

(b) A penalty shall be paid at the time of registration for any fees that are delinquent in the amount of fifty dollars (\$50).

(c) The penalty imposed pursuant to subdivision (b) shall be applicable to the 2005 registration year, and shall be adjusted thereafter pursuant to Section 713.

(d) This section shall become operative on January 1, 2023, at which time the penalty specified in this section shall be adjusted pursuant to subdivision (c) as if this section had not been inoperative.

SEC. 9. Section 15105 of the Fish and Game Code is amended to read:

15105. (a) Notwithstanding Section 13001 or 13002, all moneys collected by the department pursuant to this division shall be deposited in the Fish and Game Preservation Fund and shall be expended solely on the department's aquaculture program pursuant to this division.

(b) Notwithstanding Section 13220, these moneys are available for appropriation by the Legislature in the annual Budget Act for purposes of this division.

(c) The department shall maintain internal accountability necessary to ensure that all restrictions on the expenditure of these funds are met and shall provide an accounting of the aquaculture program account balance and expenditures upon request of the Aquaculture Development Committee or the Joint Committee on Fisheries and Aquaculture.

(d) Revenues pursuant to this chapter may be used only to pay the costs incurred in the administration and enforcement of the department's aquaculture program.

(e) The department shall prepare and submit to the Legislature on or before February 1, 2022, a report regarding the aquaculture program undertaken using revenues derived pursuant to that program, the benefits derived, and its recommendations for revising the aquaculture program requirement, if any.

(f) (1) A report to be submitted pursuant to subdivision (e) shall be submitted in compliance with Section 9795 of the Government Code.

(2) The requirement for submitting a report imposed under subdivision (e) is inoperative on February 1, 2026, pursuant to Section 10231.5 of the Government Code.

SEC. 10. Section 10106 of the Public Contract Code is amended to read: 10106. For purposes of this chapter:

(a) “Department” means any of the following:

(1) The Department of Water Resources as to any project under the jurisdiction of that department.

(2) The Department of Transportation as to any project under the jurisdiction of that department.

(3) The Department of Parks and Recreation as to any project under the jurisdiction of that department.

(4) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(5) The Military Department as to any project under the jurisdiction of that department.

(6) The Department of General Services as to all other projects.

(b) “Director” means the director of each department as defined herein respectively.

SEC. 11. Section 10107 of the Public Contract Code is amended to read:

10107. Whenever provision is made by law for any project that is not under the jurisdiction of the Department of Water Resources, the Department of Parks and Recreation, the Department of Corrections and Rehabilitation pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code, the Department of Transportation, or the Military Department, the project shall be under the sole charge and direct control of the Department of General Services.

SEC. 12. Section 2003 of the Public Resources Code is amended to read:

2003. “Survey,” in reference to the government of this state, means the California Geological Survey in the Department of Conservation.

SEC. 13. Section 2006.5 of the Public Resources Code is amended to read:

2006.5. “Supervisor of Mine Reclamation” or “supervisor” means the individual directing the Division of Mine Reclamation established pursuant to subdivision (d) of Section 607.

SEC. 14. Section 2010 of the Public Resources Code is repealed.

SEC. 15. The heading of Chapter 2 (commencing with Section 2200) of Division 2 of the Public Resources Code is amended to read:

CHAPTER 2. THE CALIFORNIA GEOLOGICAL SURVEY

SEC. 16. Section 2201 of the Public Resources Code is amended to read:

2201. The survey shall carry out programs, in cooperation with federal, state, and local government agencies, that will reduce the loss of life and property and protect the environment by mitigating geologic hazards. Specific activities to be carried out by the survey include, but are not limited to, all of the following:

(a) Hazard assessment, including identification and mapping of geologic hazards and estimates of their potential consequences to life, property, and the environment, and the likelihood of occurrence.

(b) Information and advisory services, including the maintenance of a geologic library, a public education program, maintenance of a geologic database, review functions, and expert consulting to federal, state, and local government agencies.

(c) Emergency response to geologic hazards, including, but not limited to, those related to natural disasters, including the monitoring and assessment of anomalous geologic activity, and the operation of a clearinghouse for postevent earth science investigations.

(d) Development and application of mitigation methods, including identifying state research needs, facilitating needed research, and expediting the application of new research results to public policy and all survey activities related to geologic hazards.

SEC. 17. Section 2202 of the Public Resources Code is amended to read: 2202. The director may do any of the following:

(a) (1) Make a collection of typical geological and mineralogical specimens, especially those of economic and commercial importance, and of models, drawings, and descriptions of the mechanical appliances used in mining and metallurgical processes and geology, with that collection constituting the museum of the survey, which shall be known as the California State Mining and Mineral Museum.

(2) For the purposes of ensuring financial support and oversight of the museum, the department, museum staff, and the California State Mining and Mineral Museum Association may take all appropriate measures to encourage donations for the support of the museum by individuals, companies, and organizations. These donations shall be collected by the department and deposited in the California State Mining and Mineral Museum Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the fund is hereby continuously appropriated to the department for expenditure for the following activities, in the following order of priority:

(A) Payment of curation, interpretation services, and administrative costs.

(B) Payment of management and visitation enhancement services.

(C) Operational costs of the museum.

(b) Provide a library of books, reports, and drawings bearing upon the mineral industries, the sciences of mineralogy and geology, and the arts of mining and metallurgy.

(c) Preserve and maintain that collection and library as to make them available for reference and examination, and open to public inspection at reasonable hours.

(d) Maintain a bureau of information concerning the mineral industries of this state, which is to consist of that collection and library, and arrange, classify, catalog, and index that data in a manner that makes the information available to those desiring it.

SEC. 18. Section 2204 of the Public Resources Code is amended to read:

2204. The director may receive on behalf of this state, for the use and benefit of the survey, gifts, bequests, devises, and legacies of real or other property and may use the same in accordance with the wishes of the donors. If no instructions are given by the donors, the director shall manage, use, and dispose of the gifts, bequests, and legacies for the best interests of the survey and in such manner as the director may determine to be proper.

SEC. 19. Section 2205 of the Public Resources Code is amended to read:

2205. (a) The State Geologist may do all of the following:

(1) Make, facilitate, and encourage special studies of the mineral resources, mineral industries, and geology of the state.

(2) Collect statistics concerning the occurrence and production of the economically important minerals and the methods pursued in making their valuable constituents available for commercial use.

(3) Conduct, with governmental and nongovernmental entities, geological investigations, studies, and other activities for purposes that include, but are not limited to, the timely identification, delineation, and assessment of geological hazards and their potential consequences.

(4) Identify and delineate deposits of mineral raw materials in order to prevent their loss to urban encroachment and to assist in their ultimate utilization; and enter into, as the need arises, cooperative agreements, for geological or mineral industry investigations, with cities, cities and counties, counties, federal agencies, and universities that may provide for cost sharing or cooperative funding.

(5) Maintain a laboratory to provide support to the survey staff and to conduct other investigations in the line of physical and chemical testing and analysis and mineral identification as may be required in the execution of the plans and operations of the survey under this chapter.

(6) Issue from time to time reports and maps concerning the geology of the state and the statistics and technology of the mineral industries of the state, including the results of investigations in mineral resources conservation practices; the use and recycling of scrap mineral products; the control, disposal, reclamation, and utilization of mining and mineral processing waste products; and the reclamation of mined lands.

(7) Conduct, with cities or counties, other state agencies, universities, federal agencies, or private industry, investigations in mining and metallurgy, including the use and recycling of scrap mineral products and land use practices as these apply to mineral resources conservation, and enter into, as the need arises, cooperative or contractual agreements for those investigations that may provide for cost sharing or cooperative funding.

(8) Conduct, with cities and counties, other state agencies, universities, federal agencies, or private industry, investigations in the study and development of methods for the control, disposal, reclamation, and utilization of mining and mineral processing waste products and the reclamation of mined lands, and enter into, as the need arises, cooperative or contractual agreements for those investigations that may provide for cost sharing or cooperative funding.

(9) Enter into, as the need arises, agreements, including, but not limited to, contracts, grant agreements, and cooperative agreements, with governmental and nongovernmental entities that may provide funding for activities of the survey and for the activities of the department that are directly related to the activities of the survey. Activities that may be funded include, but are not limited to, technical, analytic, and research services related to geologic hazards and resources that the survey may provide directly to those entities.

(b) For purposes of this section, the following definitions shall apply:

(1) “Governmental entities” include, but are not limited to, cities, counties, special districts, school districts, state agencies, federal agencies, public hospitals, colleges, and universities.

(2) “Nongovernmental entities” include, but are not limited to, private academic institutions, nonprofit organizations, and private hospitals.

SEC. 20. Section 2207 of the Public Resources Code is amended to read:

2207. (a) The owner or the operator of a mining operation within the state shall forward to the supervisor annually, not later than a date established by the supervisor, upon forms approved by the board from time to time, a report that identifies all of the following:

(1) The name, address, and telephone number of the person, company, or other owner of the mining operation.

(2) The name, address, and telephone number of a designated agent who resides in this state, and who will receive and accept service of all orders, notices, and processes of the lead agency, board, supervisor, or court.

(3) The location of the mining operation, its name, its mine number as issued by the Division of Mine Reclamation, its section, township, range, latitude, longitude, and approximate boundaries of the mining operation marked on a United States Geological Survey 7½-minute or 15-minute quadrangle map.

(4) The lead agency.

(5) The approval date of the mining operation’s reclamation plan.

(6) The mining operation’s status as active, idle, reclaimed, or in the process of being reclaimed.

(7) The commodities produced by the mine and the type of mining operation.

(8) A copy of the previously completed annual inspection form and a requested date, within 12 months of the prior inspection date, for the next annual inspection by the lead agency.

(9) Proof of financial assurances.

(10) Ownership of the property, including government agencies, if applicable, by the assessor’s parcel number, and total assessed value of the mining operation.

(11) The approximate permitted size of the mining operation subject to Chapter 9 (commencing with Section 2710), in acres.

(12) The approximate total acreage of land newly disturbed by the mining operation during the previous calendar year.

(13) The approximate total of disturbed acreage reclaimed during the previous calendar year.

(14) The approximate total unreclaimed disturbed acreage remaining as of the end of the calendar year.

(15) The total production for each mineral commodity produced during the previous year.

(16) A copy of any approved reclamation plan and any amendments or conditions of approval to any existing reclamation plan approved by the lead agency.

(b) (1) Every year, not later than the date established by the supervisor, the person submitting the report pursuant to subdivision (a) shall forward to the lead agency, upon forms furnished by the board, a report that provides all of the information specified in subdivision (a).

(2) The owner or operator of a mining operation shall allow access to the property to any governmental agency or the agent of any company providing financial assurance mechanisms in connection with the reclamation plan in order that the reclamation can be carried out by the entity or company, in accordance with the provisions of the reclamation plan.

(c) Subsequent reports shall include only changes in the information submitted for the items described in subdivision (a), except that, instead of the approved reclamation plan, the reports shall include any reclamation plan amendments approved during the previous year. The reports shall state whether review of a reclamation plan, financial assurances, or an interim management plan is pending under subdivision (h) of Section 2770, or whether an appeal before the board or lead agency governing body is pending under subdivision (e) or (h) of Section 2770. The supervisor shall notify the person submitting the report and the owner's designated agent in writing that the report and the fee required pursuant to subdivision (d) have been received, specify the mining operation's mine number if one has not been issued by the Division of Mine Reclamation, and notify the person and agent of any deficiencies in the report within 90 days of receipt. That person or agent shall have 30 days from receipt of the notification to correct the noted deficiencies and forward the revised report to the supervisor and the lead agency. A person who fails to comply with this section, or knowingly provides incorrect or false information in reports required by this section, may be subject to an administrative penalty as provided in subdivision (c) of Section 2774.1.

(d) (1) The board shall impose, by regulation, pursuant to paragraph (2), an annual reporting fee on, and method for collecting annual fees from, each active or idle mining operation. The maximum fee for any single mining operation may not exceed ten thousand dollars (\$10,000) annually and may not be less than one hundred dollars (\$100) annually, as adjusted 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, except that the maximum fee for any single mining operation shall not exceed six thousand dollars (\$6,000) in the 2017–18 fiscal year and eight thousand dollars (\$8,000) in the 2018–19 fiscal year.

(2) (A) The board shall adopt, by regulation, a schedule of fees authorized under paragraph (1) to cover the department's cost in carrying out this section and Chapter 9 (commencing with Section 2710), as reflected in the Governor's proposed Budget, and may adopt those regulations as emergency regulations. In establishing the schedule of fees to be paid by each active and idle mining operation, the fees shall be calculated on an equitable basis reflecting the size and type of operation. The board shall also consider the total assessed value of the mining operation, the acreage disturbed by mining activities, and the acreage subject to the reclamation plan.

(B) Regulations adopted pursuant to this subdivision shall be adopted by the board in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of any emergency regulations pursuant to this subdivision shall be considered necessary to address an emergency and shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(3) The total revenue generated by the reporting fees may not exceed, and may be less than, the amount of eight million dollars (\$8,000,000), as adjusted 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, beginning with the 2017–18 fiscal year and annually thereafter. If the director determines that the revenue collected during the preceding fiscal year was greater or less than the cost to operate the program, the board shall adjust the fees to compensate for the overcollection or undercollection of revenues.

(4) (A) The reporting fees established pursuant to this subdivision shall be deposited in the Mine Reclamation Account, which is hereby created. Any fees, penalties, interest, fines, or charges collected by the supervisor or board pursuant to this chapter or Chapter 9 (commencing with Section 2710) shall be deposited in the Mine Reclamation Account. The money in the account shall be available to the department and board, upon appropriation by the Legislature, for the purpose of carrying out this section and complying with Chapter 9 (commencing with Section 2710), which includes, but is not limited to, the classification and designation of areas with mineral resources of statewide or regional significance, reclamation plan and financial assurance review, mine inspection, and enforcement.

(B) (i) In addition to reporting fees, the board shall collect five dollars (\$5) per ounce of gold and ten cents (\$0.10) per ounce of silver mined within the state and shall deposit the fees collected in the Abandoned Mine Reclamation and Minerals Fund Subaccount, which is hereby created in the Mine Reclamation Account. The department may expend the moneys in the subaccount, upon appropriation by the Legislature, for only the purposes of Section 2796.5 and as authorized herein for the remediation of abandoned mines.

(ii) Notwithstanding subdivision (j) of Section 2796.5, fees collected pursuant to clause (i) may also be used to remediate features of historic

abandoned mines and lands that they impact. For the purposes of this section, historic abandoned mines are mines for which operations have been conducted before January 1, 1976, and include, but are not limited to, historic gold and silver mines.

(5) In case of late payment of the reporting fee, a penalty of not less than one hundred dollars (\$100) or 10 percent of the amount due, whichever is greater, plus interest at the rate of 1 ½ percent per month, computed from the delinquent date of the assessment until and including the date of payment, shall be assessed. New mining operations that have not submitted a report shall submit a report prior to commencement of operations. The new operation shall submit its fee according to the reasonable fee schedule adopted by the board, and the month that the report is received shall become that operation's anniversary month.

(e) The lead agency, or the board when acting as the lead agency, may impose a fee upon each mining operation to cover the reasonable costs incurred in implementing this chapter and Chapter 9 (commencing with Section 2710).

(f) For purposes of this section, "mining operation" means a mining operation of any kind or character whatever in this state, including, but not limited to, a mining operation that is classified as a "surface mining operation" as defined in Section 2735, unless excepted by Section 2714. For the purposes of fee collections only, "mining operation" may include one or more mines operated by a single operator or mining company on one or more sites, if the total annual combined mineral production for all sites is less than 100 troy ounces for precious metals, if precious metals are the primary mineral commodity produced, or less than 100,000 short tons if the primary mineral commodity produced is not precious metals.

(g) Any information in reports submitted pursuant to subdivision (a) that includes or otherwise indicates the total mineral production, reserves, or rate of depletion of any mining operation may not be disclosed to any member of the public, as defined in subdivision (b) of Section 6252 of the Government Code. Other portions of the reports are public records unless excepted by statute. Statistical bulletins based on these reports and published under Section 2205 shall be compiled to show, for the state as a whole and separately for each lead agency, the total of each mineral produced therein. In order not to disclose the production, reserves, or rate of depletion from any identifiable mining operation, no production figure shall be published or otherwise disclosed unless that figure is the aggregated production of not less than three mining operations. If the production figure for any lead agency would disclose the production, reserves, or rate of depletion of less than three mining operations or otherwise permit the reasonable inference of the production, reserves, or rate of depletion of any identifiable mining operation, that figure shall be combined with the same figure of not less than two other lead agencies without regard to the location of the lead agencies. The bulletin shall be published annually by June 30 or as soon thereafter as practicable.

(h) The approval of a form by the board pursuant to this section is not the adoption of a regulation for purposes of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and is not subject to that act.

SEC. 21. Section 2207.2 of the Public Resources Code is amended to read:

2207.2. (a) No later than December 31, 2021, the supervisor shall report to the Legislature on the expenditure of moneys in the Mine Reclamation Account, created pursuant to Section 2207. The report shall include all of the following:

(1) An overview of how the moneys expended over the prior five fiscal years have been allocated between classification and designation of areas with mineral resources of statewide or regional significance, reclamation plan and financial assurance review, lead agency support and assistance, annual report processing, support for the board, enforcement, and any other activities that constituted more than 5 percent of expenditures.

(2) Information on the portion of the fees that have been collected from small construction aggregate providers with under 50,000 tons of production.

(3) Information on the percentage of the fees that have been paid by metallic mineral operations.

(b) This section shall remain in effect only until January 1, 2026, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2026, deletes or extends that date.

SEC. 22. Section 2209 of the Public Resources Code is amended to read:

2209. The director may fix a price upon and dispose of to the public all publications of the survey, including reports, bulletins, maps, registers, or other publications. The price shall approximate the cost of publication and distribution. The director may also furnish the publications of the survey to public libraries without cost and may exchange publications with geological surveys, scientific societies, and other like bodies.

SEC. 23. Section 2210 of the Public Resources Code is amended to read:

2210. All money received by the survey from sales of publications issued by the survey shall be deposited at least once each month in the State Treasury to the credit of the General Fund.

SEC. 24. Section 2701 of the Public Resources Code is amended to read:

2701. The survey shall organize and monitor the program with the advice of the Seismic Safety Commission.

SEC. 25. Section 2702 of the Public Resources Code is amended to read:

2702. The survey shall purchase, install, and maintain instruments in representative structures and geologic environments throughout the state, and shall process the data obtained from those instruments resulting from periodic earthquakes, as deemed necessary and desirable by the Seismic Safety Commission.

SEC. 26. Section 2703 of the Public Resources Code is amended to read:

2703. The survey shall maintain and service the strong-motion instruments installed, shall collect and interpret all records from the

instruments, and shall make the records, record interpretations, and technical assistance available to the construction industry.

SEC. 27. Section 2707 of the Public Resources Code is amended to read:

2707. The survey, upon the advice of the Seismic Safety Commission, whenever it determines that an adequate instrumentation program has been achieved, may reduce the fee levied against building permits as provided in Section 2705 to a level sufficient to maintain the program established pursuant to this chapter.

SEC. 28. Section 2714 of the Public Resources Code is amended to read:

2714. This chapter does not apply to any of the following activities:

(a) Excavations or grading of lands conducted for farming.

(b) Onsite excavation and onsite earthmoving activities that are integral and necessary for the construction of structures and that are undertaken to prepare a site for the construction of those structures, including landscaping or other land improvements associated with those structures, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

(1) All required permits for the construction and any associated landscaping or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(2) The lead agency's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(3) The approved construction project is consistent with the general plan or zoning of the site.

(4) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.

(c) Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:

(1) The plant site is located on lands designated for industrial or commercial uses in the applicable county or city general plan.

(2) The plant site is located on lands zoned as industrial or commercial or are contained within a zoning category intended exclusively for industrial activities by the applicable city or county.

(3) None of the minerals being processed are being extracted onsite.

(4) All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred onsite after January 1, 1976.

(d) Prospecting for or the extraction of minerals for commercial purposes where the removal of overburden or mineral product totals less than 1,000 cubic yards in any one location and the total surface area disturbed is less than one acre.

(e) Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

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

(g) The solar evaporation of sea water or bay water for the production of salt and related minerals.

(h) Emergency excavations or grading conducted by the Department of Water Resources or the Central Valley Flood Protection Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

(i) (1) Surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control, and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Central Valley Flood Protection Board for the purpose of flood control, if the Department of Water Resources adopts, after submission to and consultation with, the Division of Mine Reclamation, a reclamation plan for lands affected by these activities, and those lands are reclaimed in conformance with the standards specified in regulations of the board adopted pursuant to this chapter. The Department of Water Resources shall provide an annual report to the department by the date specified by the department on these mining activities.

(2) Nothing in this subdivision shall require the Department of Water Resources or the Central Valley Flood Protection Board to obtain a permit or secure approval of a reclamation plan from any city or county in order to conduct surface mining operations specified in paragraph (1). Nothing in this subdivision shall preclude the bringing of an enforcement action pursuant to Section 2774.1, if it is determined that a surface mine operator, acting under contract with the Department of Water Resources or the Central Valley Flood Protection Board on lands other than those owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources or the Central Valley Flood Protection Board, is otherwise not in compliance with this chapter.

(j) (1) Excavations or grading for the exclusive purpose of obtaining materials for roadbed construction and maintenance conducted in connection with timber operations or forest management on land owned by the same person or entity. This exemption is limited to excavation and grading that is conducted adjacent to timber operation or forest management roads and shall not apply to onsite excavation or grading that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to excavation for materials that are, or have been, sold for commercial purposes.

(2) This exemption shall be available only if slope stability and erosion are controlled in accordance with subdivision (f) of Section 3704 and subdivision (d) of Section 3706 of Title 14 of the California Code of Regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and postclosure uses in consultation with the Department of Forestry and Fire Protection.

(k) Excavations, grading, or other earthmoving activities in an oil or gas field that are integral to and necessary for ongoing operations for the extraction of oil or gas that comply with all of the following conditions:

(1) The operations are being conducted in accordance with Division 3 (commencing with Section 3000).

(2) The operations are consistent with any general plan or zoning applicable to the site.

(3) The earthmoving activities are within oil or gas field properties under a common owner or operator.

(4) No excavated materials are sold for commercial purposes.

(l) (1) The immediate excavation or grading of lands affected by a natural disaster for the purpose of restoring those lands to their prior condition.

(2) The immediate removal of material deposited by a flood onto lands being farmed for the purpose of restoring those lands to their prior condition.

SEC. 29. Section 2715.5 of the Public Resources Code is amended to read:

2715.5. (a) The Cache Creek Resource Management Plan, in conjunction with a site specific plan deemed consistent by the lead agency with the Cache Creek Resource Management Plan, shall be considered to be a functional equivalent of a reclamation plan for the purposes of this chapter. No other reclamation plan shall be required to be reviewed and approved for any excavation project subject to the Cache Creek Resource Management Plan that is conducted in conformance with an approved site specific plan that is consistent with the Cache Creek Resource Management Plan and the standards specified in that plan governing erosion control, channel stabilization, habitat restoration, flood control, or infrastructure maintenance, if that plan is reviewed and approved by a lead agency pursuant to this chapter.

(b) For the purposes of this section, the board of supervisors of the county in which the Cache Creek Resource Management Plan is to be implemented shall prepare and file an annual report required to be prepared pursuant to Section 2207, indicating the quantity of minerals produced. The board of supervisors of the county in which the Cache Creek Resource Management Plan is to be implemented shall be exempt from the payment of annual reporting fees imposed pursuant to paragraph (1) of subdivision (d) of Section 2207. An operator, acting under the authority of the Cache Creek Resource Management Plan, shall include in the operator's annual report required pursuant to Section 2207 the quantity of materials produced and shall be responsible for payment of annual fees associated with the quantity of minerals produced.

(c) Nothing in this section precludes an enforcement action by the board or the Division of Mine Reclamation brought pursuant to this chapter or Section 2207 if the lead agency or the supervisor determines that an operator, acting under the authority of the Cache Creek Resource Management Plan, is not in compliance with the requirements of this chapter or Section 2207.

(d) For purposes of this section, “site specific plan” means an individual project plan approved by the lead agency that is consistent with the Cache Creek Resource Management Plan. Site specific plans prepared in conformance with the Cache Creek Resource Management Plan shall include, at a minimum, the information required pursuant to subdivision (c) of Section 2772, shall comply with the requirements of Article 9 (commencing with Section 3700) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, and shall be provided along with a financial assurance cost estimate to the Division of Mine Reclamation for review and comment pursuant to Section 2772.1 or 2773.4, as applicable. Notwithstanding the number of days authorized by subdivision (b) of Section 2772.1 or subdivision (c) of Section 2773.4, the Division of Mine Reclamation shall review the site specific plan and the financial assurance cost estimate and prepare any written comments within 15 days from the date of receipt of the plan and the estimate.

(e) Prior to engaging in an excavation activity in conformance with the Cache Creek Resource Management Plan, a surface mining operation shall be required to obtain financial assurances that meet the requirements of Section 2773.1. Release of financial assurances shall comply with Section 2773.1 and the provisions of Article 11 (commencing with Section 3800) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations.

SEC. 30. Section 2716 of the Public Resources Code is amended to read:

2716. (a) Any interested person may commence an action on his or her own behalf against the board, the lead agency, the State Geologist, the supervisor, or the director for a writ of mandate pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure to compel the board, the State Geologist, the supervisor, or the director to carry out any duty imposed upon them pursuant to this chapter.

(b) For purposes of this section, “person” means an individual, firm, association, corporation, organization, or partnership, or a city, county, district, or the state or any department or agency of the state.

SEC. 31. Section 2717 of the Public Resources Code, as amended by Section 2 of Chapter 417 of the Statutes of 2013, is amended to read:

2717. (a) Notwithstanding Section 10231.5 of the Government Code, the board shall submit to the Legislature on December 1 of each year a report on the actions taken pursuant to this chapter during the preceding fiscal year. The report shall include a statement of the actions, including legislative recommendations, that are necessary to carry out more completely the purposes and requirements of this chapter.

(b) For purposes of ensuring compliance with Sections 10295.5 and 20676 of the Public Contract Code, the Division of Mine Reclamation shall,

at a minimum, quarterly publish in the California Regulatory Notice Register, or otherwise make available upon request to the Department of General Services or any other state or local agency, a list identifying all of the following:

(1) Surface mining operations for which a report is required and has been submitted pursuant to Section 2207 that indicates all of the following:

(A) The reclamation plan and financial assurances have been approved pursuant to this chapter.

(B) Compliance with state reclamation standards developed pursuant to Section 2773.

(C) Compliance with the financial assurance guidelines developed pursuant to Section 2773.1.

(D) The annual reporting fee has been submitted to the Division of Mine Reclamation.

(2) Surface mining operations for which an appeal is pending before the board pursuant to subdivision (e) of Section 2770, if the appeal was not pending before the board for more than 180 days.

(3) Surface mining operations for which an inspection is required and for which an inspection notice has been submitted by the lead agency pursuant to Section 2774 that indicates both compliance with the approved reclamation plan and that sufficient financial assurances, pursuant to Section 2773.1, have been approved and secured.

(4) Surface mining operations that meet all of the following:

(A) The reclamation plan has been approved and is in compliance with this chapter.

(B) The mining operation is in compliance with either of the following:

(i) The approved reclamation plan.

(ii) An order to comply issued prior to January 1, 2019, pursuant to this chapter and that is being complied with by the operator. An order to comply may be stipulated to as follows:

(I) By the Division of Mine Reclamation, lead agency, and operator if the enforcement action was initiated by the supervisor.

(II) By the lead agency and the operator, with notice of the stipulation provided to the supervisor if the enforcement action was initiated by the lead agency.

(C) In accordance with Section 2773.1 and Article 11 (commencing with Section 3800) of Title 14 of the California Code of Regulations, as amended, the surface mining operation has an approved financial assurance in place that is adequate for reclamation pursuant to the approved reclamation plan.

(c) Between July 1, 2017, and January 1, 2018, the Division of Mine Reclamation shall submit to the Legislature a report on the activities of lead agencies and surface mining operations. This report shall include, but is not limited to, all of the following:

(1) Number of financial assurance cost estimates reviewed and approved each year by each lead agency.

(2) Number of annual mine inspections performed by each lead agency.

(3) Information on idle mines and interim management plans approved by each lead agency.

(4) Number and location of mining operations that are no longer in operation with no intent to resume and are in the process of reclamation and how many years each of these mining operations has claimed that status.

(5) Information on approved mineral resources management plans across the state from the board.

(6) Number and location of mines with reclamation plans approved prior to the adoption of the 1993 reclamation standards.

(7) Percentage of mining operations on the list published pursuant to subdivision (b) and the number and location of mining operations that have been placed on the list pursuant to clause (ii) of subparagraph (B) of paragraph (4) of subdivision (b).

(8) Number of historic abandoned mines remediated by the Division of Mine Reclamation and locations of known remaining hazards.

(9) Number, types, and status of notices of violations and orders to comply issued by the Division of Mine Reclamation organized by location.

(10) Number of administrative penalties issued by the Division of Mine Reclamation and amounts, as well as information on the amounts actually collected by the Division of Mine Reclamation organized by location.

(d) A report submitted pursuant to subdivision (a) or (c) shall be submitted in compliance with Section 9795 of the Government Code.

(e) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 32. Section 2717 of the Public Resources Code, as added by Section 3 of Chapter 417 of the Statutes of 2013, is amended to read:

2717. (a) Notwithstanding Section 10231.5 of the Government Code, the board shall submit to the Legislature on December 1 of each year a report on the actions taken pursuant to this chapter during the preceding fiscal year. The report shall include a statement of the actions, including legislative recommendations, that are necessary to carry out more completely the purposes and requirements of this chapter.

(b) For purposes of ensuring compliance with Sections 10295.5 and 20676 of the Public Contract Code, the Division of Mine Reclamation shall, at a minimum, quarterly publish in the California Regulatory Notice Register, or otherwise make available upon request to the Department of General Services or any other state or local agency, a list identifying all of the following:

(1) Surface mining operations for which a report is required and has been submitted pursuant to Section 2207 that indicates all of the following:

(A) The reclamation plan and financial assurances have been approved pursuant to this chapter.

(B) Compliance with state reclamation standards developed pursuant to Section 2773.

(C) Compliance with the financial assurance guidelines developed pursuant to Section 2773.1.

(D) The annual reporting fee has been submitted to the Division of Mine Reclamation.

(2) Surface mining operations for which an appeal is pending before the board pursuant to subdivision (e) of Section 2770, if the appeal was not pending before the board for more than 180 days.

(3) Surface mining operations for which an inspection is required and for which an inspection notice has been submitted by the lead agency pursuant to Section 2774 that indicates both compliance with the approved reclamation plan and that sufficient financial assurances, pursuant to Section 2773.1, have been approved and secured.

(4) Surface mining operations to which an order to comply was issued pursuant to this chapter prior to January 1, 2019, and that is being complied with. An order to comply may have been stipulated to as follows:

(A) By the Division of Mine Reclamation, lead agency, and operator if the enforcement action was initiated by the supervisor.

(B) By the lead agency and the operator, with notice of the stipulation provided to the supervisor if the enforcement action was initiated by the lead agency.

(c) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(d) This section shall become operative January 1, 2019.

SEC. 33. Section 2759 of the Public Resources Code is amended to read:

2759. The state policy shall be continuously reviewed and may be revised. During the formulation or revision of the policy, the board shall consult with, and carefully evaluate the recommendations of, the supervisor, any district technical advisory committees, concerned federal, state, and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals.

SEC. 34. Section 2770 of the Public Resources Code is amended to read:

2770. (a) Except as provided in this section, a person shall not conduct surface mining operations 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 for the operation pursuant to this article.

(b) A person with an existing surface mining operation who has vested rights pursuant to Section 2776 and who does not have an approved reclamation plan shall submit a reclamation plan to the lead agency not later than March 31, 1988. If a reclamation plan application is not on file by March 31, 1988, the continuation of the surface mining operation is prohibited until a reclamation plan is submitted to the lead agency. For the purposes of this subdivision, a reclamation plan existing prior to January 1, 2017, may consist of all or the appropriate sections of any plans or written agreements previously approved by the lead agency or another agency, together with any additional documents needed to substantially meet the requirements of Sections 2772 and 2773 and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, provided that all documents, which together were proposed to serve as the reclamation

plan, are submitted for approval to the lead agency in accordance with this chapter.

(c) [Reserved]

(d) [Reserved]

(e) (1) A person who can substantiate, based on the evidence of the record, that a lead agency has either (A) failed to act according to due process or has relied on considerations not related to the specific applicable requirements of Sections 2772, 2772.1, 2773, 2773.1, 2773.3, and 2773.4 and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774 in reaching a decision to deny approval of a reclamation plan or financial assurances for reclamation, or (B) failed to act within a reasonable time of receipt of a completed application may appeal that action or inaction to the board.

(2) The supervisor may appeal a lead agency's approval of a financial assurance cost estimate to the board if the supervisor has commented pursuant to Section 2773.4 that the financial assurance cost estimate is inadequate based on consideration of the following:

(A) Section 2773.1.

(B) Article 11 (commencing with Section 3800) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations.

(C) The board's financial assurance guidelines adopted pursuant to subdivision (f) of Section 2773.1.

(3) If the approved financial assurance cost estimate applies to a reclamation plan approved for a new surface mining operation, an expanded surface mining operation, or an interim financial assurance cost estimate due to an order to comply, stipulated or otherwise, the operator shall provide a financial assurance mechanism pursuant to subdivision (e) of Section 2773.4 in the amount of the approved financial assurance cost estimate, notwithstanding an appeal filed pursuant to this subdivision and subject to modification pending the outcome of the appeal.

(4) If the approved financial assurance cost estimate is an update to an existing approved financial assurance cost estimate, the existing financial assurance mechanism shall remain in place and shall not be adjusted until a final determination by the board on the appeal filed pursuant to this subdivision.

(f) (1) The board may decline to hear an appeal if it determines that the appeal raises no substantial issues related to the lead agency's decision to deny the approval of a reclamation plan or financial assurance, or the timeliness in reviewing a completed application. Appeals filed by the supervisor shall be heard by the board.

(2) If the board takes up an appeal, the appeal shall be scheduled and heard at a public hearing within 45 days of the filing of the appeal, or a longer period as may be mutually agreed to by the board, the appellant, and the operator, or, if the appeal is filed by the supervisor, by the board, the supervisor, and the operator.

(g) (1) (A) When hearing an appeal filed pursuant to paragraph (1) or (2) of subdivision (e), the board shall determine whether the reclamation

plan or the financial assurance cost estimate substantially meets the applicable requirements of Sections 2772, 2772.1, 2773, 2773.1, 2773.3, and 2773.4; Article 1 (commencing with Section 3500), Article 9 (commencing with Section 3700), and Article 11 (commencing with Section 3800) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations; and the lead agency's surface mining ordinance adopted pursuant to subdivision (a) of Section 2774. The board shall approve or uphold a reclamation plan or financial assurance cost estimate determined to meet those applicable requirements. In any event, financial assurances for reclamation shall be sufficient to perform reclamation of lands remaining disturbed.

(B) For purposes of this subdivision, "substantially" means actual compliance in respect to the substance and form requirements essential to the objectives of this chapter.

(2) (A) A reclamation plan determined not to meet the applicable requirements of Sections 2772, 2772.1, 2773, 2773.1, 2773.3, and 2773.4; Article 1 (commencing with Section 3500), Article 9 (commencing with Section 3700), and Article 11 (commencing with Section 3800) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations; and the lead agency's surface mining ordinance adopted pursuant to subdivision (a) of Section 2774 shall be returned to the operator with a notice of deficiencies. The operator shall be granted, once only, a period of 30 days or a longer period mutually agreed upon by the operator and the board to do both of the following:

(i) Correct the noted deficiencies.

(ii) Submit the revised reclamation plan to the lead agency for review and approval.

(B) Within 10 days of the hearing, the board shall provide notice via certified mail to the lead agency, the operator, and the Division of Mine Reclamation of the board's determination. The notice shall include instructions to the operator to submit to the lead agency for approval a revised reclamation plan consistent with the board's determination.

(3) (A) If the board determines the lead agency's approved financial assurance cost estimate does not meet the requirements of Sections 2773.1 and 2773.4, Article 11 (commencing with Section 3800) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, and the board's financial assurance guidelines adopted pursuant to subdivision (f) of Section 2773.1, the board shall note the deficiencies and, based on the record, include adequate cost estimates for each noted deficiency.

(B) Within 10 days of the hearing, the board shall provide notice via certified mail to the lead agency, the operator, and the Division of Mine Reclamation of the board's determination with instructions to the operator to submit to the lead agency for approval a revised financial assurance cost estimate consistent with the board's determination. The instructions shall include a reasonable submission deadline of not less than 30 days.

(C) The lead agency shall approve the revised financial assurance cost estimate. That approval shall supersede and void the prior approved financial assurance cost estimate.

(D) A financial assurance mechanism shall be established by the operator pursuant to subdivision (e) of Section 2773.4 following the approval of the financial assurance cost estimate.

(E) The failure of the operator to submit to the lead agency a revised financial assurance cost estimate consistent with the board's determination and deadline may be grounds for the issuance of an order to comply pursuant to subdivision (a) of Section 2774.1.

(h) (1) Within 90 days of a surface mining operation becoming idle, as defined in Section 2727.1, the operator shall submit to the lead agency for review and approval an interim management plan. The review and approval of an interim management plan shall not be considered a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000)). The approved interim management plan shall be considered an amendment to the surface mining operation's approved reclamation plan for purposes of this chapter. The interim management plan shall provide measures the operator will implement to maintain the site in compliance with this chapter, including, but not limited to, all permit conditions.

(2) The interim management plan may remain in effect for a period not to exceed five years, at which time the lead agency shall do one of the following:

(A) Renew the interim management plan for an additional period not to exceed five years, which may be renewed for one additional five-year renewal period at the expiration of the first five-year renewal period, if the lead agency finds that the surface mining operator has complied fully with the interim management plan.

(B) Require the operator to commence reclamation in accordance with its approved reclamation plan.

(3) The financial assurances required by Section 2773.1 shall remain in effect during the period that the surface mining operation is idle. If the surface mining operation is still idle after the expiration of its interim management plan, the operator shall commence reclamation in accordance with its approved reclamation plan.

(4) Within 60 days of the receipt of the interim management plan or a longer period mutually agreed upon by the lead agency and the operator, the lead agency shall review and approve the plan in accordance with its ordinance adopted pursuant to subdivision (a) of Section 2774, so long as the plan satisfies the requirements of this subdivision, and so notify the operator in writing. Otherwise, the lead agency shall notify the operator in writing of any deficiencies in the plan. The operator shall have 30 days, or a longer period mutually agreed upon by the operator and the lead agency, to submit a revised plan.

(5) The lead agency shall approve or deny approval of the revised interim management plan within 60 days of receipt. If the lead agency denies

approval of the revised interim management plan, the operator may appeal that action to the lead agency's governing body, which shall schedule a public hearing within 45 days of the filing of the appeal or a longer period mutually agreed upon by the operator and the governing body.

(6) Unless review of an interim management plan is pending before the lead agency or an appeal is pending before the lead agency's governing body, a surface mining operation that remains idle for over one year after becoming idle, as defined in Section 2727.1, without obtaining approval of an interim management plan shall be considered abandoned and the operator shall commence and complete reclamation in accordance with the approved reclamation plan.

(i) An enforcement action that may be brought against a surface mining operation for operating without an approved reclamation plan, financial assurance, or interim management plan shall be held in abeyance pending review pursuant to subdivision (b) or (h), or the resolution of an appeal filed with the board pursuant to subdivision (e), or with a lead agency governing body pursuant to subdivision (h).

SEC. 35. Section 2772 of the Public Resources Code is amended to read:

2772. (a) The reclamation plan shall be filed with the lead agency, on a form provided by the lead agency, by any person who owns, leases, or otherwise controls or operates on all or any portion of any mined lands and who plans to conduct surface mining operations on the lands.

(b) The reclamation plan shall include a chart identifying the page number, chapter, appendix, or other specific location in the reclamation plan where content meeting the requirements, as applicable, of Sections 2772, 2773, and 2773.3 and Article 1 (commencing with Section 3500) and Article 9 (commencing with Section 3700) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, is located.

(c) The reclamation plan shall include all of the following information and documents:

(1) The name and address of the operator and the names and addresses of any persons designated by the operator as an agent for the service of process.

(2) The anticipated quantity and type of minerals for which the surface mining operation is to be conducted.

(3) The proposed dates for the initiation and termination of the surface mining operation.

(4) The maximum anticipated depth of the surface mining operation.

(5) A reclamation plan map or maps that shall include all of the following:

(A) Size and legal description of the lands that will be affected by the surface mining operation and the names and addresses of the owners of all surface interests and mineral interests in the lands.

(B) Clearly defined and accurately drawn property lines, setbacks, and the reclamation plan boundary.

(C) Existing topography and final topography depicted with contour lines drawn at appropriate intervals for the site's conditions.

(D) Detailed geologic description of the area of the surface mining operation.

(E) Location of railroads, utility facilities, access roads, temporary roads to be reclaimed, and any roads remaining for the approved end use.

(F) All maps, diagrams, or calculations that require preparation in accordance with the Professional Engineers Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code), the Geologist and Geophysicist Act (Chapter 12.5 (commencing with Section 7800) of Division 3 of the Business and Professions Code), or the Professional Land Surveyors' Act (Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code) shall be prepared by a California-licensed professional, shall include his or her license number and name, and shall bear the signature and seal of the licensee.

(6) A description of and a plan for the type of surface mining to be employed and a time schedule that will provide for the completion of surface mining on each segment of the mined lands so that reclamation can be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance by the surface mining operation.

(7) A description of the proposed use or potential uses of the mined lands after reclamation and evidence that all owners of a possessory interest in the land have been notified of the proposed use or potential uses.

(8) A description of the manner in which reclamation, adequate for the proposed use or potential uses, will be accomplished, including both of the following:

(A) A description of the manner in which known contaminants will be controlled and mining waste will be disposed.

(B) A description of the manner in which affected streambed channels and streambanks will be rehabilitated to a condition that minimizes erosion and sedimentation.

(9) An assessment of the effect of implementation of the reclamation plan on future mining in the area.

(10) A statement that the person submitting the reclamation plan accepts responsibility for reclaiming the mined lands in accordance with the reclamation plan.

(11) Any other information that the lead agency may require by ordinance.

(d) An item of information or a document required pursuant to subdivision (c) that has already been prepared as part of a permit application for the surface mining operation or as part of an environmental document prepared for the project pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)) may be included in the reclamation plan by reference, if that item of information or that document is attached to the reclamation plan when the lead agency submits the reclamation plan to the supervisor for review. To the extent the information, document, or component of a document referenced in the reclamation plan is used to meet the requirements of subdivision (c) or Section 2773 or 2773.3, the information, document, or component of a document shall become part

of the reclamation plan and shall be subject to all other requirements of this article.

(e) Nothing in this section is intended to limit or expand the Division of Mine Reclamation's authority or responsibility to review a document in accordance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

SEC. 36. Section 2772.1 of the Public Resources Code is amended to read:

2772.1. (a) (1) Prior to approving a surface mining operation's reclamation plan or plan amendment, the lead agency shall submit the reclamation plan or plan amendment to the supervisor for review. The reclamation plan or plan amendment shall be submitted to the supervisor as early as practicable in order to facilitate the lead agency's review of the reclamation plan pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)). All documentation for the submission shall be submitted to the supervisor at one time.

(2) An item of information, document, or component of a document that has been prepared as part of a permit application for the surface mining operation or as part of an environmental document prepared for the project pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)) shall be incorporated into the reclamation plan or plan amendment if it is used to satisfy the requirements of subdivision (c) of Section 2772, Sections 2773 and 2773.3, and Article 1 (commencing with Section 3500) and Article 9 (commencing with Section 3700) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, as applicable. If an item of information, document, or component of a document is incorporated, reference to the item shall be added to the chart required pursuant to subdivision (b) of Section 2772 and shall be properly indexed with the corresponding appendix reference and page numbers, if applicable. The item shall be included in an appendix to and shall become part of the reclamation plan or plan amendment.

(3) The lead agency shall certify to the supervisor that the reclamation plan or plan amendment is a complete submission and is in compliance with all of the following:

(A) The applicable requirements of this chapter.

(B) Article 1 (commencing with Section 3500) and Article 9 (commencing with Section 3700) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, as applicable.

(C) The lead agency's surface mining ordinance in effect at the time that the reclamation plan or plan amendment is submitted to the supervisor for review, except if the board is the lead agency.

(b) (1) The supervisor shall have 30 days from the receipt of a reclamation plan or plan amendment to notify the lead agency and operator if the submission is incomplete. An incomplete submission is one that does not meet the content requirements of Sections 2772, 2773, and 2773.3 and Article 1 (commencing with Section 3500) and Article 9 (commencing with Section 3700) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the

California Code of Regulations, as applicable. The supervisor's notice shall specifically identify all aspects of the submission that are incomplete.

(2) The supervisor shall have 30 days after the date the supervisor is required to notify the lead agency if the submission is incomplete to prepare written comments on the reclamation plan or plan amendment if the supervisor chooses.

(3) If the supervisor has issued a notice of incomplete submission pursuant to paragraph (1), the supervisor's time to prepare written comments on the reclamation plan or plan amendment shall not commence until the supervisor receives each item identified in the notice. The supervisor's time shall include any remaining time pursuant to paragraph (1) and the time allowed pursuant to paragraph (2).

(4) The lead agency shall review and evaluate written comments received from the supervisor relating to the reclamation plan or plan amendment within a reasonable amount of time.

(5) (A) The lead agency shall prepare a written response to the supervisor's comments received pursuant to paragraph (2) describing the disposition of the major issues raised by the comments. The lead agency shall submit its response to the supervisor at least 30 days prior to the intended approval of the reclamation plan or plan amendment. The lead agency's response shall include either of the following:

(i) A description of how the lead agency proposes to adopt the supervisor's comments to the reclamation plan or plan amendment.

(ii) A detailed description of the reasons why the lead agency proposes not to adopt the supervisor's comments.

(B) Copies of any written comments received and responses prepared by the lead agency pursuant to subparagraph (A) shall be forwarded to the operator.

(6) (A) The lead agency shall give the supervisor at least 30 days' notice of the time, place, and date of the hearing at which the reclamation plan or plan amendment is scheduled to be approved by the lead agency.

(B) If no hearing is required by this chapter, the local ordinance, or other state law, the lead agency shall provide 30 days' notice to the supervisor that the lead agency intends to approve the reclamation plan or plan amendment.

(7) (A) Within 30 days following the approval of the reclamation plan or plan amendment, the lead agency shall provide the supervisor notice of the approval. During that period, the Division of Mine Reclamation retains all powers, duties, and authorities of this chapter. The lead agency shall provide, as soon as practicable but no later than 60 days after approval of the reclamation plan or plan amendment, certified copies of all maps, diagrams, or calculations, signed and sealed.

(B) No later than 60 days after the approval of the reclamation plan or plan amendment, the lead agency shall provide to the supervisor an official copy of the approved reclamation plan or plan amendment. The official copy shall incorporate all approved modifications to the reclamation plan or plan amendment and shall include an index showing any permit conditions

of approval or binding mitigation measures adopted or certified pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)) that are necessary to meet the requirements of subdivision (c) of Section 2772, Sections 2773 and 2773.3, and Article 1 (commencing with Section 3500) and Article 9 (commencing with Section 3700) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, as applicable. Those conditions of approval and mitigation measures shall be included in an appendix to the reclamation plan or plan amendment and shall be considered part of the reclamation compliance requirements and subject to the annual inspection requirements.

(c) To the extent there is a conflict between the comments of a trustee agency or a responsible agency that are based on that agency's statutory or regulatory authority and the comments of other commenting agencies that are received by the lead agency pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)) regarding a reclamation plan or plan amendments, the lead agency shall consider only the comments of the trustee agency or responsible agency.

(d) Nothing in this section is intended to limit or expand the Division of Mine Reclamation's authority or responsibility to review a document in accordance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

SEC. 37. Section 2772.6 of the Public Resources Code is amended to read:

2772.6. (a) In addition to meeting the requirements of Section 2773.1, the financial assurance cost estimate required of a surface mining operation within the boundaries of the San Gabriel Basin Water Quality Authority for any one year shall be in an amount not less than that required to ensure reclamation of the disturbed areas is completed in accordance with the approved reclamation plan.

(b) This section applies to activities otherwise subject to this chapter conducted within the boundaries of the San Gabriel Basin Water Quality Authority. To the extent of any conflict between this section and any other provision of this chapter, this section shall prevail.

SEC. 38. Section 2773.1 of the Public Resources Code is amended to read:

2773.1. (a) Lead agencies shall require financial assurances of each surface mining operation to ensure reclamation is performed in accordance with the surface mining operation's approved reclamation plan, as follows:

(1) A financial assurance mechanism may take the form of surety bonds executed by an admitted surety insurer, as defined in subdivision (a) of Section 995.120 of the Code of Civil Procedure, irrevocable letters of credit, trust funds, or other forms of financial assurance mechanisms specified by the board pursuant to subdivision (e) that the lead agency reasonably determines are adequate to perform reclamation in accordance with the surface mining operation's approved reclamation plan.

(2) Financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed.

(3) The amount of the financial assurance cost estimate required of a surface mining operation for any one year shall be reviewed and, if necessary, adjusted once each calendar year to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan. An operator shall be required to replace an approved financial assurance mechanism to bond for the reclamation of the surface mining operation only if the financial assurance cost estimate identifies a need to increase the amount of the financial assurance mechanism.

(4) Financial assurance cost estimates shall be submitted to the lead agency for review on a form developed by the supervisor and approved by the board. The form shall be subject to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(5) Each financial assurance mechanism shall be made payable to the lead agency and the department. A financial assurance mechanism shall not be released without the consent of the lead agency and the department. A financial assurance mechanism that was approved by the lead agency prior to January 1, 1993, and was made payable to the State Geologist shall be considered payable to the department for purposes of this chapter. However, if a surface mining operation has received approval of its financial assurance cost estimate from a public agency other than the lead agency, the lead agency shall deem those financial cost estimates adequate for purposes of this section, or shall credit them toward fulfillment of the financial cost estimate required by this section, if they are made payable to the public agency, the lead agency, and the department and otherwise meet the requirements of this section. In any event, if a lead agency and one or more public agencies exercise jurisdiction over a surface mining operation, the total amount of financial assurances required by the lead agency and the public agencies for any one year shall not exceed that amount that is necessary to perform reclamation of lands remaining disturbed. For purposes of this paragraph, a “public agency” may include a federal agency.

(b) (1) If the lead agency, or the board when acting as a lead agency, has evidence that an operator may be financially incapable of completing reclamation in accordance with its approved reclamation plan or that the operator may have abandoned the surface mining operation without completing reclamation, the lead agency or the board, when acting as a lead agency, shall conduct a public hearing to determine whether the operator is financially capable of completing reclamation in accordance with the approved reclamation plan or has abandoned the surface mining operation. The hearing shall be noticed to the operator and the supervisor at least 30 days prior to the hearing.

(2) If the lead agency or the board, following the public hearing conducted pursuant to paragraph (1), determines that the operator is financially

incapable of performing reclamation in accordance with its approved reclamation plan or has abandoned its surface mining operation without completing reclamation, either the lead agency or the supervisor shall do all of the following:

(A) Notify the operator by personal service or certified mail that the lead agency or the supervisor intends to take appropriate action to forfeit the financial assurances and specify the reasons for so doing.

(B) Proceed to take appropriate action to require forfeiture of the financial assurance mechanisms.

(C) Use the proceeds from the forfeited financial assurance mechanisms to conduct and complete reclamation in accordance with the approved reclamation plan. If the surface mining operation cannot be reclaimed in accordance with its approved reclamation plan, or the financial assurance mechanisms are inadequate to reclaim in accordance with its approved reclamation plan, the lead agency or supervisor may use forfeited financial assurance mechanisms to reclaim or remediate mining disturbances as appropriate for the site conditions as determined by both the lead agency and the supervisor. The financial assurance mechanisms shall not be used for any other purpose. The operator is responsible for the costs of conducting and completing reclamation in accordance with the approved reclamation plan or a remediation plan developed pursuant to this section as determined appropriate by both the lead agency and the supervisor that are in excess of the proceeds from the forfeited financial assurance mechanisms.

(c) Financial assurances shall no longer be required of a surface mining operation, and shall be released, upon the written concurrence of the lead agency and the supervisor, which shall be forwarded to the operator and the institutions providing or holding the financial assurance mechanism, that reclamation has been completed in accordance with the approved reclamation plan. If a surface mining operation is sold or ownership is transferred to another person, the existing financial assurance mechanism shall remain in force and shall not be released by the lead agency and the supervisor until new financial assurance mechanisms are secured from the new owner and have been approved by the lead agency in accordance with Sections 2770, 2773.1, and 2773.4. Within 90 days of the sale or transfer of a surface mining operation, the new operator shall submit an appropriate financial assurance mechanism, which may be the existing mechanism if the existing mechanism is payable in the event of the new operator's financial incapability or abandonment of the surface mining operation, that is subject to review by the lead agency and the supervisor pursuant to subdivision (e) of Section 2773.4. Within 15 days of the sale or transfer of a surface mining operation, the new operator shall sign a new statement of reclamation responsibility in accordance with paragraph (10) of subdivision (c) of Section 2772.

(d) The lead agency shall have primary responsibility to seek forfeiture of the financial assurance mechanisms and to reclaim mine sites pursuant to subdivision (b). However, if the board is not the lead agency pursuant to Section 2774.4, the supervisor may act to seek forfeiture of the financial

assurance mechanisms and reclaim the mine sites pursuant to subdivision (b) only if both of the following occur:

(1) The financial incapability of the operator or the abandonment of the surface mining operation has come to the attention of the supervisor.

(2) The lead agency has been notified in writing by the supervisor of the financial incapability of the operator or the abandonment of the surface mining operation for at least 15 days, the lead agency has not taken appropriate measures to seek forfeiture of the financial assurance mechanisms and reclaim the mine site, and one of the following has occurred:

(A) The lead agency has been notified in writing by the supervisor that failure to take appropriate measures to seek forfeiture of the financial assurance mechanisms or to reclaim the mine site shall result in actions being taken against the lead agency under Section 2774.4.

(B) The supervisor determines that there is a violation that amounts to an imminent and substantial endangerment to the public health, safety, or to the environment.

(C) The lead agency notifies the supervisor in writing that its good faith attempts to seek forfeiture of the financial assurance mechanisms have not been successful.

The supervisor shall comply with subdivision (b) in seeking the forfeiture of financial assurance mechanisms and reclaiming mine sites.

(e) The board may adopt regulations specifying financial assurance mechanisms other than surety bonds, irrevocable letters of credit, and trust funds, which the board determines are reasonably available and adequate to ensure reclamation pursuant to this chapter, but these mechanisms shall not include financial tests or surety bonds executed by one or more personal sureties. These mechanisms may include reclamation bond pool programs.

(f) The board shall adopt or revise guidelines to implement this section as necessary. The guidelines are exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), and are not subject to review by the Office of Administrative Law.

SEC. 39. Section 2773.1.5 of the Public Resources Code is amended to read:

2773.1.5. (a) Notwithstanding subdivision (e) of Section 2773.1, a financial assurance mechanism may include corporate financial tests combined with surety bonds, irrevocable letters of credit, or trust funds, as described in this section, that together ensure the completion of reclamation in accordance with the approved reclamation plan.

(b) (1) Corporate financial tests shall only be allowed after the board adopts a regulation that establishes a comprehensive analysis and test of a corporation's financial status that includes, but is not limited to, all of the following:

(A) A minimum financial net worth of at least thirty-five million dollars (\$35,000,000), adjusted annually to reflect changes in the Consumer Price Index, as calculated by the United States Bureau of Labor Statistics.

(B) Income.

(C) Liabilities, including other environmental assurances.

(D) Assets located within the United States.

(2) The regulation also shall include, but need not be limited to, all of the following:

(A) Additional measures to provide the lead agency or the supervisor with the recovery of costs associated with the full collection and satisfaction of the financial assurance mechanisms.

(B) Requirements for corporate financial tests that include, but are not limited to, all of the following:

(i) Provide for no more than 75 percent of the financial assurance cost estimate approved within the last year.

(ii) Be annually approved by both the lead agency and the supervisor.

(iii) Be able to be disallowed by either the lead agency or the supervisor.

(iv) Include an assessment from an independent certified public accountant using generally accepted accounting principles in the United States.

(c) Each surface mining operation shall have at least 25 percent of the financial assurance cost estimate in an acceptable financial assurance mechanism other than a corporate financial test if a qualifying corporation operates multiple surface mining operations.

(d) Subject to the requirements of this subdivision, an operator of multiple surface mining operations may use a corporate financial test that combines the financial assurance cost estimates of each surface mining operation.

SEC. 40. Section 2773.3 of the Public Resources Code is amended to read:

2773.3. (a) In addition to other reclamation plan requirements of this chapter and regulations adopted by the board pursuant to this chapter, a lead agency may not approve a reclamation plan for a surface mining operation for gold, silver, copper, or other metallic minerals or financial assurances for the operation, if the operation is located on, or within one mile of, any Native American sacred site and is located in an area of special concern, unless both of the following criteria are met:

(1) The reclamation plan requires that all excavations be backfilled and graded to do both of the following:

(A) Achieve the approximate original contours of the mined lands prior to mining.

(B) Grade all mined materials that are in excess of the materials that can be placed back into excavated areas, including, but not limited to, all overburden, spoil piles, and heap leach piles, over the project site to achieve the approximate original contours of the mined lands prior to mining.

(2) The financial assurance cost estimates are sufficient in amount to provide for the backfilling and grading required by paragraph (1).

(b) For purposes of this section, the following terms have the following meanings:

(1) "Native American sacred site" means a specific area that is identified by a federally recognized Indian Tribe, Rancheria or Mission Band of Indians, or by the Native American Heritage Commission, as sacred by

virtue of its established historical or cultural significance to, or ceremonial use by, a Native American group, including, but not limited to, any area containing a prayer circle, shrine, petroglyph, or spirit break, or a path or area linking the circle, shrine, petroglyph, or spirit break with another circle, shrine, petroglyph, or spirit break.

(2) “Area of special concern” means any area in the California desert that is designated as Class C or Class L lands or as an Area of Critical Environmental Concern under the California Desert Conservation Area Plan of 1980, as amended, by the United States Department of the Interior, Bureau of Land Management, pursuant to Section 1781 of Title 43 of the United States Code.

SEC. 41. Section 2773.4 of the Public Resources Code is amended to read:

2773.4. (a) (1) Prior to approving the financial assurance cost estimate for a new reclamation plan or adjustments to the financial assurance cost estimate based on an amendment to a reclamation plan, the lead agency shall submit the financial assurance cost estimate to the supervisor for review.

(2) The lead agency shall provide the supervisor with a determination that the financial assurance cost estimate submitted pursuant to paragraph (1) is adequate, complete, and consistent with Section 2773.1, Article 11 (commencing with Section 3800) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, and the board’s financial assurance guidelines adopted pursuant to subdivision (f) of Section 2773.1.

(3) All documentation submitted to the supervisor pursuant to this subdivision shall be submitted at one time.

(b) No later than 15 days after receiving a financial assurance cost estimate, the supervisor shall notify the lead agency and the operator if the submission is incomplete. An incomplete submission is one that does not meet the content requirements of Section 2773.1, Article 11 (commencing with Section 3800) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, and the board’s financial assurance guidelines adopted pursuant to subdivision (f) of Section 2773.1. The supervisor’s notice shall specifically identify all aspects of the submission that are incomplete. The supervisor’s time to review the financial assurance cost estimate shall commence upon the receipt of a submission that contains the aspects identified in the supervisor’s notice to the lead agency.

(c) (1) The supervisor shall have 45 days from the date of receipt of a complete financial assurance cost estimate to prepare written comments if the supervisor chooses.

(2) The lead agency shall evaluate written comments received from the supervisor relating to the financial assurance cost estimate within a reasonable amount of time. The lead agency shall prepare a written response to the supervisor’s comments describing the disposition of the major issues raised by the supervisor’s comments.

(3) The lead agency shall submit its proposed response to the supervisor at least 30 days prior to approval of the financial assurance cost estimate. The lead agency's response shall include either of the following:

(A) A description of how the lead agency proposes to adopt the supervisor's comments to the financial assurance cost estimate.

(B) A detailed description of the reasons why the lead agency proposes to not adopt the supervisor's comments.

(4) Copies of any written comments received and responses prepared by the lead agency shall be forwarded to the operator.

(5) (A) If the lead agency, in its written response to the supervisor's comments, proposes to not adopt the supervisor's comments relating to the financial assurance cost estimate, the supervisor, within 15 days of receipt of the lead agency's written response, may request in writing a consultation with the lead agency to discuss the supervisor's comments and the lead agency's response. The request shall include an invitation to the operator to participate in the consultation. The consultation may be conducted in person, electronically, telephonically, or by any means convenient to the parties.

(B) If the supervisor requests a consultation pursuant to this subdivision, the lead agency shall not approve the financial assurance cost estimate until after consulting with the supervisor. The consultation shall occur not later than 30 days after the supervisor's request unless an alternate timeframe is mutually agreed upon by the supervisor, lead agency, and operator.

(6) (A) The lead agency shall give the supervisor at least 30 days' notice of the time, place, and date of the hearing at which the financial assurance cost estimate is scheduled to be approved by the lead agency. If no hearing is required by this chapter, local ordinance, or other state law, then the lead agency shall provide 30 days' notice to the supervisor that it intends to approve the financial assurance cost estimate.

(B) The lead agency shall send to the supervisor its final response to the supervisor's comments within 30 days following its approval of the financial assurance cost estimate, during which time the Division of Mine Reclamation retains all of its powers, duties, and authority pursuant to this chapter.

(d) (1) (A) Within 30 days of an annual inspection being conducted pursuant to Section 2774, an operator shall provide an annual financial assurance cost estimate to the lead agency for review.

(B) If the lead agency fails to cause the inspection of the surface mining operation on the date requested by the operator pursuant to Section 2207 or on the date set by the lead agency pursuant to subdivision (c) of Section 2774, the operator shall provide an annual financial assurance cost estimate to the lead agency for review within 30 days of the applicable inspection date, unless the lead agency causes the inspection to occur within that time period, in which case the operator shall provide an annual financial assurance cost estimate to the lead agency within 30 days of the date of the inspection.

(2) (A) Within 60 days of receiving an operator's annual financial assurance cost estimate, the lead agency shall do one of the following:

(i) Deny the financial assurance cost estimate pursuant to paragraph (6).

(ii) Submit the financial assurance cost estimate to the supervisor for review.

(B) The lead agency shall provide the supervisor with a determination that the annual financial assurance cost estimate submitted is adequate, complete, and consistent with Section 2773.1, Article 11 (commencing with Section 3800) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, and the board's financial assurance guidelines adopted pursuant to subdivision (f) of Section 2773.1.

(3) All documentation submitted to the supervisor pursuant to this subdivision shall be submitted at one time.

(4) Within 15 days of receiving an annual financial assurance cost estimate, the supervisor shall notify the lead agency and the operator if the submission is incomplete. An incomplete submission is one that does not meet the content requirements of Section 2773.1, Article 11 (commencing with Section 3800) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, and the board's financial assurance guidelines adopted pursuant to subdivision (f) of Section 2773.1. The supervisor's notice shall specifically identify all aspects of the submission that are incomplete. The supervisor's time to review the annual financial assurance cost estimate shall commence upon the receipt of a submission that contains the aspects identified in the supervisor's notice to the lead agency.

(5) (A) Within 45 days of receiving an operator's complete annual financial assurance cost estimate from the lead agency, the supervisor shall prepare written comments on the operator's annual financial assurance cost estimate and provide the comments to the lead agency and the operator if the supervisor so chooses.

(B) (i) Within 30 days from receiving the supervisor's written comments pursuant to this subdivision, the lead agency shall evaluate the written comments and provide the supervisor and operator its proposed response to the supervisor.

(ii) The lead agency shall submit its proposed response to the supervisor at least 30 days prior to approving the annual financial assurance cost estimate. The lead agency's response shall include either of the following:

(I) A description of how the lead agency proposes to adopt the supervisor's comments to the annual financial assurance cost estimate.

(II) A detailed description of the reasons why the lead agency proposes not to adopt the supervisor's comments.

(iii) Copies of any written comments received and responses prepared by the lead agency pursuant to this subparagraph shall be provided to the operator.

(C) (i) If the lead agency, in its written response to the supervisor's comments, proposes to not adopt the supervisor's comments concerning the annual financial assurance cost estimate, the supervisor, within 15 days of receipt of the lead agency's written response, may request in writing a consultation with the lead agency to discuss the supervisor's comments and the lead agency's response. The request shall include an invitation to the

operator to participate in the consultation. The consultation may be conducted in person, electronically, telephonically, or by any means convenient to the parties.

(ii) If the supervisor requests a consultation pursuant to this subparagraph, the lead agency shall not approve the annual financial assurance cost estimate until after consulting with the supervisor. The consultation shall occur not later than 30 days after the supervisor's request unless an alternate timeframe is mutually agreed upon by the supervisor, lead agency, and operator.

(D) (i) Within 60 days of receiving the supervisor's written comments, or of a consultation pursuant to this subdivision, whichever is later or the due date of the supervisor's written comments if none are received, the lead agency shall approve or deny an operator's annual financial assurance cost estimate.

(ii) The lead agency shall give the supervisor at least 30 days' notice of the time, place, and date of the hearing at which the annual financial assurance cost estimate is scheduled to be approved by the lead agency.

(iii) If no hearing is required by this chapter, local ordinance, or other state law, the lead agency shall provide 30 days' notice to the supervisor that it intends to approve the annual financial assurance cost estimate.

(E) Within 30 days of the lead agency's approval of the annual financial assurance cost estimate, the lead agency shall send the supervisor its final response to the supervisor's comments.

(6) If the lead agency determines an operator's annual financial assurance cost estimate is inadequate, the lead agency shall specify the reasons for that determination. The operator shall have 30 days to appeal that denial pursuant to subdivision (e) of Section 2770 or provide a revised financial assurance cost estimate incorporating the suggested changes to the lead agency for approval by the lead agency pursuant to this section.

(e) (1) Within 30 days of the lead agency's approval of a financial assurance cost estimate pursuant to this section, the operator shall provide the lead agency and the supervisor an appropriate financial assurance mechanism.

(2) (A) Within 15 days of receiving a financial assurance mechanism pursuant to this subdivision, or subdivision (c) of Section 2773.1 the lead agency and the supervisor shall review the financial assurance mechanism to determine if the type of mechanism, including the release instructions, meets the requirements of this chapter.

(B) Financial assurance mechanisms determined to be noncompliant with this chapter shall be returned to the operator with instructions on how to correct the type or release instructions of the financial assurance mechanism.

(3) By July 1, 2018, the board shall adopt forms to implement this subdivision as necessary. The forms shall be subject to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(f) The review and approval of financial assurances pursuant to this chapter shall not be considered a project for the purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

SEC. 42. Section 2774 of the Public Resources Code is amended to read:

2774. (a) Every lead agency shall adopt ordinances in accordance with state policy that establish procedures for the review and approval of reclamation plans and financial assurances and the issuance of a permit to conduct surface mining operations, except that any lead agency without an active surface mining operation in its jurisdiction may defer adopting an implementing ordinance until the filing of a permit application. The ordinances shall establish procedures requiring at least one public hearing and shall be periodically reviewed by the lead agency and revised, as necessary, to ensure that the ordinances continue to be in accordance with state policy.

(b) (1) The lead agency shall cause surface mining operations to be inspected in intervals of no more than 12 months, solely to determine whether the surface mining operation is in compliance with this chapter. The lead agency shall cause an inspection to be conducted by a state-licensed geologist, state-licensed civil engineer, state-licensed landscape architect, state-licensed forester, or a qualified lead agency employee who has not been employed by the surface mining operation being inspected in any capacity during the previous 12 months, except that a qualified lead agency employee may inspect surface mining operations conducted by the local agency. All inspections shall be conducted using a form developed by the Division of Mine Reclamation and approved by the board that includes the professional licensing and disciplinary information of the person who conducted the inspection. The operator shall be solely responsible for the reasonable cost of the inspection. The lead agency shall provide a notice of completion of inspection to the supervisor within 90 days of conducting the inspection. The notice shall contain a statement regarding the surface mining operation's compliance with this chapter and a copy of the completed inspection form, and shall specify, as applicable, all of the following:

(A) Aspects of the surface mining operation, if any, that were found to be inconsistent with this chapter but were corrected before the submission of the inspection form to the supervisor.

(B) Aspects of the surface mining operation, if any, that were found to be inconsistent with this chapter but were not corrected before the submission of the inspection form to the supervisor.

(C) A statement describing the lead agency's intended response to any aspects of the surface mining operation found to be inconsistent with this chapter but were not corrected before the submission of the inspection form to the supervisor.

(2) If the surface mining operation has a review of its reclamation plan, financial assurances, or an interim management plan pending under subdivision (b) or (h) of Section 2770, or an appeal pending before the board or lead agency governing body under subdivision (e) or (h) of Section 2770, the notice shall so indicate. The lead agency shall forward to the operator a copy of the notice, a copy of the completed inspection form, and any supporting documentation, including, but not limited to, any inspection

report prepared by the geologist, civil engineer, landscape architect, forester, or qualified lead agency employee who conducted the inspection.

(c) If an operator does not request an inspection date on the annual report filed pursuant to Section 2207 or if the lead agency is unable to cause the inspection of a given surface mining operation on the date requested by the operator, the lead agency shall provide the operator with a minimum of five days' written notice of a pending inspection or a lesser time period if agreed to by the operator.

(d) No later than July 1 of each year, the lead agency shall submit to the supervisor for each active or idle surface mining operation within the lead agency's jurisdiction the following information:

(1) A copy of any permit or reclamation plan amendments, as applicable.

(2) A statement that there have been no changes during the previous year, as applicable.

(3) The date of each surface mining operation's last inspection.

(4) The date of each surface mining operation's last financial assurance review pursuant to Section 2773.1 for each operation listed.

(e) (1) No later than December 31, 2017, the Division of Mine Reclamation shall establish a training program for all surface mine inspectors. The program shall be designed to include a guidance document, developed by the Division of Mine Reclamation, in consultation with the board and stakeholders, to provide instruction and recommendations to surface mine inspectors performing inspections pursuant to subdivision (b).

(2) The training program shall include inspection workshops offered by the Division of Mine Reclamation in different regions of the state to provide practical application of the guidance document material.

(3) On and after July 1, 2020, all inspectors shall have on file with the lead agency and the Division of Mine Reclamation a certificate of completion of an inspection workshop. An inspector shall attend a workshop no later than five years after the date of his or her most recent certificate.

(4) The adoption of the guidance document by the Division of Mine Reclamation pursuant to this subdivision shall be subject to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 43. Section 2774.1 of the Public Resources Code is amended to read:

2774.1. (a) (1) Except as provided in subdivision (i) of Section 2770, if the lead agency or the supervisor determines, based upon an annual inspection pursuant to Section 2774, or otherwise confirmed by an inspection of the surface mining operation, that a surface mining operation is not in compliance with this chapter, the lead agency or the supervisor may issue a notice of that violation to the operator by personal service or certified mail. If the lead agency issues the notice, the lead agency shall send a copy of the notice to the supervisor. The notice shall include both of the following:

(A) A description of the violation.

(B) Actions the operator shall take to correct the violation.

(2) (A) If a lead agency or the supervisor determines that the time to correct the noticed violation will exceed 30 days, the lead agency and the operator may enter into a stipulated order to comply, with notice sent to the supervisor. If the supervisor initiated the enforcement action, the supervisor, after consulting with the lead agency, may enter into a stipulated order to comply with the operator. The lead agency may, but need not, join the stipulated order with the supervisor.

(B) A stipulated order to comply shall include a schedule and time for compliance that the lead agency or the supervisor, as applicable, determines is reasonable after taking into account the actions and legal processes required to correct the violation.

(3) (A) If the operator does not comply with a notice issued pursuant to paragraph (1) within 30 days of being served the notice or commit to enter into a stipulated order to comply pursuant to paragraph (2) within 30 days of being served the notice, the lead agency or the supervisor may issue an order to comply by personal service or certified mail requiring the operator to comply with this chapter or, if the operator does not have an approved reclamation plan or financial assurances, cease all further surface mining activities.

(B) An order to comply issued pursuant to this paragraph shall take effect 30 days following the service of the order to comply unless within those 30 days the operator appeals the order to comply and requests a hearing before the lead agency, if the lead agency issued the order, or the board, if the supervisor issued the order. An order to comply issued pursuant to this paragraph shall specify all of the following:

(i) Which aspects of the surface mining operation are inconsistent with this chapter.

(ii) A time for compliance that the lead agency or supervisor determines is reasonable, taking into account the seriousness of the alleged violation and any good faith efforts to comply with applicable requirements.

(iii) The actions and legal processes required to correct the alleged violation.

(C) An appeal filed pursuant to subparagraph (B) shall be noticed and heard at a public hearing within 45 days of the filing of the appeal or a longer period as may be mutually agreed upon by the operator and the lead agency, if the lead agency issued the order, or the operator and the supervisor, if the supervisor issued the order.

(b) [Reserved]

(c) An operator who violates or fails to comply with an order to comply issued under subdivision (a) after the order's effective date or who fails to submit a report or pay annual fees to the supervisor or lead agency as required by Section 2207, shall be subject to an order by the lead agency or the supervisor imposing an administrative penalty of not more than five thousand dollars (\$5,000) per day, assessed from the original date of noncompliance with this chapter, including Section 2207, or from the date of the inspection when the violation was identified, at the discretion of the issuer of the notice of that violation. The penalty may be imposed

administratively by the lead agency or the supervisor. In determining the amount of the administrative penalty, the lead agency or the supervisor shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and any other matters justice may require. Orders setting administrative penalties shall become effective upon issuance of the assessment and payment shall be made to the lead agency or the supervisor within 30 days, unless the operator petitions the legislative body of the lead agency, the board, or the superior court for review as provided in Section 2774.2. An order shall be served by personal service or by certified mail upon the operator. Penalties collected by the supervisor shall not be used for purposes other than to cover the reasonable costs incurred by the department in implementing this chapter or Section 2207.

(d) (1) An operator who violates or fails to comply with an order to comply issued pursuant to paragraph (3) of subdivision (a) or a stipulated order to comply entered into pursuant to paragraph (2) of subdivision (a) after the order's effective date shall be removed from the list published by the Division of Mine Reclamation pursuant to subdivision (b) of Section 2717.

(2) If after a public hearing the board or lead agency denies an appeal by the operator pursuant to subparagraph (C) of paragraph (3) of subdivision (a), the operator shall be removed 10 working days following the denial of the appeal from the list published by the Division of Mine Reclamation pursuant to subdivision (b) of Section 2717.

(3) If the operator enters into a stipulated order to comply between the operator and the lead agency, if the lead agency issued the order, or the operator and the supervisor, if the supervisor issued the order, within 10 working days of the denial of the appeal and the stipulated order to comply is consistent with the order to comply upheld by the board or lead agency and includes a stipulated schedule for compliance, the operator shall remain on the list published by the Division of Mine Reclamation pursuant to subdivision (b) of Section 2717.

(4) Issuance of a notice pursuant to paragraph (1) of subdivision (a) or an order to comply or stipulated order to comply pursuant to paragraph (2) or (3) of subdivision (a) shall not disqualify an operator from eligibility for placement on the list published by the Division of Mine Reclamation pursuant to subdivision (b) of Section 2717.

(e) If the lead agency or the supervisor determines that the surface mine is not in compliance with this chapter, so that the surface mine presents an imminent and substantial endangerment to the public health or the environment, the lead agency or the Attorney General, on behalf of the supervisor, may seek an order from a court of competent jurisdiction enjoining that operation.

(f) Upon a complaint by the supervisor, the department, or the board, the Attorney General may bring an action to recover administrative penalties under this section, and penalties under Section 2207, in any court of

competent jurisdiction in this state against any person violating any provision of this chapter or Section 2207, or any regulation adopted pursuant to this chapter or Section 2207. The Attorney General may bring this action on his or her own initiative if, after examining the complaint and the evidence, he or she believes a violation has occurred. The Attorney General may also seek an order from a court of competent jurisdiction compelling the operator to comply with this chapter and Section 2207.

(g) (1) The lead agency has primary responsibility for enforcing this chapter and Section 2207. In cases where the board is not the lead agency pursuant to Section 2774.4, enforcement actions may be initiated by the supervisor pursuant to this section only after the violation has come to the attention of the supervisor and either of the following occurs:

(A) The lead agency has been notified by the supervisor in writing of the violation for at least 30 days, and has not taken appropriate enforcement action, which may include failing to issue an order to comply within a reasonable time after issuing a notice of violation.

(B) The supervisor determines that there is a violation that amounts to an imminent and substantial endangerment to the public health or safety, or to the environment.

(2) The supervisor shall comply with this section in initiating enforcement actions.

(h) Remedies under this section are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal.

SEC. 44. Section 2774.2 of the Public Resources Code is amended to read:

2774.2. (a) Within 30 days of the issuance of an order setting administrative penalties under subdivision (c) of Section 2774.1, the operator may petition the legislative body of the lead agency, if the lead agency has issued the order, or the board for orders issued by the supervisor, for review of the order. If the operator does not petition for review within the time limits set by this subdivision, the order setting administrative penalties shall not be subject to review by any court or agency.

(b) The legislative body of the lead agency or the board shall notify the operator by personal service or certified mail whether it will review the order setting administrative penalties. In reviewing an order pursuant to this section, the record shall consist of the record before the lead agency or the supervisor and any other relevant evidence which, in the judgment of the legislative body or the board, should be considered to effectuate and implement the policies of this chapter.

(c) The legislative body or the board may affirm, modify, or set aside, in whole or in part, by its own order, an order of the lead agency or the supervisor setting administrative penalties reviewed by the legislative body or the board pursuant to this section.

(d) An order of the legislative body or the board issued under subdivision (c) shall become effective upon its issuance unless the operator petitions the superior court for review as provided in subdivision (e). An order shall be served by personal service or by certified mail upon the operator. Payment

of an administrative penalty that is specified in an order issued pursuant to subdivision (c) shall be made to the lead agency or the supervisor within 30 days of service of the order. However, the payment shall be held in an interest bearing impound account pending the resolution of a petition for review filed pursuant to subdivision (e).

(e) An operator aggrieved by an order of the legislative body or the board issued pursuant to subdivision (c) may obtain review of the order by filing in the superior court a petition for writ of mandate within 30 days following the issuance of the order. An operator aggrieved by an order of a lead agency or the supervisor setting administrative penalties pursuant to subdivision (c) of Section 2774.1, for which the legislative body or board denies review, may obtain review of the order in the superior court by filing in the court a petition for writ of mandate within 30 days following the denial of review. The provisions of Section 1094.5 of the Code of Civil Procedure shall govern judicial proceedings pursuant to this subdivision, except that in every case the court shall exercise its independent judgment. If the operator does not petition for a writ of mandate within the time limits set by this subdivision, an order of the board or the legislative body shall not be subject to review by any court or agency.

(f) (1) After the expiration of the time to petition for review pursuant to subdivision (a) or (e), the supervisor or the board acting as the lead agency may apply to the small claims court or the superior court, depending on the jurisdictional amount, in the county where the administrative penalty was imposed for a judgment to collect the unpaid administrative penalty imposed pursuant to subdivision (c) of Section 2774.1. The application shall include all of the following:

(A) The order setting the administrative penalty pursuant to subdivision (c) of Section 2774.1.

(B) A notice to the operator of the right to petition for review of the order.

(C) Either of the following:

(i) A declaration from the board that no petition was made or that the board declined to review the petition.

(ii) A copy of the final order of the board.

(2) An application submitted pursuant to this subdivision shall constitute a sufficient showing to warrant the issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application.

(3) The judgment entered pursuant to this subdivision shall have the same force and effect as, and shall be subject to all the provisions of law relating to, a judgment in a civil action and may be enforced in the same manner as any other judgment of the court. The court shall make enforcement of the judgment a priority.

SEC. 45. Section 2774.4 of the Public Resources Code is amended to read:

2774.4. (a) The board shall exercise some or all of a lead agency's powers under this chapter pursuant to subdivision (c), except for permitting

authority and vested rights determinations, if the board finds that a lead agency has done any of the following:

(1) Approved reclamation plans or financial assurance mechanisms that are not consistent with this chapter.

(2) Failed to inspect or cause the inspection of surface mining operations as required by this chapter.

(3) Failed to seek forfeiture of financial assurances and to carry out reclamation of surface mining operations as required by this chapter.

(4) Failed to take appropriate enforcement actions as required by this chapter.

(5) Intentionally misrepresented the results of inspections required under this chapter.

(6) Failed to submit information to the Division of Mine Reclamation as required by this chapter.

(b) The board shall conduct a public hearing no sooner than three years after the board has taken action pursuant to subdivision (a) to determine if a lead agency has corrected its deficiencies in implementing and enforcing this chapter and the rules and regulations adopted pursuant to this chapter. If the board finds the lead agency has corrected some or all of its deficiencies in implementing and enforcing this chapter, the board shall restore to the lead agency some or all of the powers assumed by the board pursuant to subdivision (a).

(c) (1) Before taking any action pursuant to subdivision (a), the board shall first notify the lead agency of the identified deficiencies and allow the lead agency 45 days to provide a response to the board on the identified deficiencies. The board may review the lead agency's response at a regularly scheduled meeting.

(2) (A) If the board is not satisfied with the lead agency's response, the board shall hold a public hearing within the lead agency's area of jurisdiction, upon a 45-day written notice given to the public in at least one newspaper of general circulation within the city or county and directly mailed to the lead agency and to all operators within the lead agency's jurisdiction who have submitted reports as required by Section 2207.

(B) At the hearing, the board shall determine if the lead agency has engaged in the conduct described in subdivision (a). If the board finds that the lead agency has engaged in conduct described in subdivision (a), the board shall do either of the following:

(i) Require the lead agency to develop a remedial plan to correct the noted deficiencies. The remedial plan shall describe specific objectives and corresponding processes designed to address, at a minimum, the noted deficiencies and a time that the remedial plan will be fully implemented. The board shall set a hearing to review the completion of the remedial plan consistent with paragraph (2) and subdivisions (d) and (e).

(ii) Take immediate action pursuant to subdivision (a).

(d) Affected operators and interested persons have the right at the public hearing to present oral and written evidence on the matter being considered.

At the public hearing, the board may place reasonable limits on the right of affected operators and interested persons to question and solicit testimony.

(e) (1) If the board decides to take action pursuant to subdivision (a) and exercise some or all of a lead agency's powers under this chapter, except for permitting authority and vested rights determinations, the board, based on the record of the public hearing, shall adopt written findings that explain all of the following:

(A) The action to be taken by the board.

(B) Why the board decided to take the action.

(C) Why the action is authorized by and meets the requirements of subdivision (a).

(2) In addition, the board's findings shall address the significant issues raised, or written evidence presented, by affected operators, interested persons, the lead agency, or the Division of Mine Reclamation. The transcript of testimony and exhibits, together with all papers and requests filed in the proceedings, shall constitute the exclusive record for decision by the board.

(f) If the board finds at the hearing held pursuant to paragraph (2) of subdivision (c) that the lead agency has not completed the remedial plan prepared pursuant to clause (i) of subparagraph (B) of paragraph (2) of subdivision (c) to the board's satisfaction, the board shall follow the procedures set forth in paragraph (2) of subdivision (c) and subdivisions (d) and (e). If the board finds at the hearing held pursuant to paragraph (2) of subdivision (c) that the lead agency has completed the remedial plan prepared pursuant to clause (i) of subparagraph (B) of paragraph (2) of subdivision (c) to the board's satisfaction, the board shall conclude the action it has taken pursuant to this section.

(g) The lead agency, any affected operator, or any interested person who has presented oral or written evidence at the public hearing before the board pursuant to subdivision (d) may obtain review of the board's action taken pursuant to subdivision (a) by filing in the superior court a petition for writ of mandate within 30 days following the issuance of the board's decision. Section 1094.5 of the Code of Civil Procedure governs judicial proceedings pursuant to this subdivision, except that in every case the court shall exercise its independent judgment. If a petition for a writ of mandate is not filed within the time limits set by this subdivision, the board's action under subdivision (a) shall not be subject to review by any court or agency.

SEC. 46. Section 2777.3 of the Public Resources Code is amended to read:

2777.3. (a) The construction and operation of a renewable energy generation facility on disturbed mined lands, including all foundations and other installations, facilities, buildings, accessory structures, and other improvements to the land that are related to the generation of energy, shall be considered an interim use for the purposes of this chapter and shall not require an amendment to an approved reclamation plan if all of the following criteria are met:

(1) The renewable energy generation facility will not adversely affect the completion of reclamation in accordance with the surface mining operation's approved reclamation plan.

(2) The permit conditions of the renewable energy generation facility address and eliminate any potentially adverse impacts on the surface mining operation.

(3) The operating permit for the renewable energy generation facility includes both of the following:

(A) An approved closure and decommissioning plan that will not affect the manner in which reclamation will be achieved pursuant to this chapter.

(B) A separate financial assurance mechanism that the lead agency determines to be sufficient to perform the removal of the renewable energy generation facility.

(4) The closure and decommissioning of the renewable energy generation facility will occur prior to the later of the following:

(A) The expiration of the use permit for the surface mining operation.

(B) The completion of reclamation in accordance with the surface mining operation's approved reclamation plan.

(5) All required permits for the construction and related land improvements have been approved by a public agency in accordance with the applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(b) (1) Prior to approving an operating permit for a renewable energy generation facility subject to this section, the lead agency shall submit the operating permit application with all the associated maps and plans to the supervisor for review.

(2) The supervisor shall have 30 days from the receipt of the application with associated documents to prepare written comments if the supervisor chooses.

(3) The supervisor may provide comments relating to whether the renewable energy generation facility meets the criteria set forth in paragraphs (1) to (4), inclusive, of subdivision (a).

(4) The lead agency shall prepare a written response to the supervisor's comments and submit its response to the supervisor at least 30 days prior to the approval of the operating permit for the renewable energy generation facility.

(c) Copies of all approved permits and associated documents shall be submitted to the lead agency and the supervisor as an addendum to the approved reclamation plan no less than 30 days prior to the commencement of land improvements associated with the renewable energy generation facility.

(d) For purposes of this section, "renewable energy generation facility" means a solar photovoltaic, solar thermal under 50 megawatts, or wind energy generation facility.

SEC. 47. Section 2777.5 of the Public Resources Code is amended to read:

2777.5. (a) An operator who has failed to properly report a mine's mineral production or mine status in any previous year, pursuant to the annual reporting requirement in Section 2207, prior to January 1, 2012, may attach corrected annual reports to the 2012 annual report so long as the corrected annual reports are submitted on or before July 1, 2013, and if the lead agency confirms in writing to the department all of the following:

(1) The operator has provided written notification to the lead agency and the supervisor of their intention to continue surface mining operations.

(2) The operator has an existing, valid permit or a vested right to conduct surface mining operations pursuant to Section 2776.

(3) (A) The operator's reclamation plan has been approved and is in compliance with this chapter, the surface mining operation is in compliance with the approved reclamation plan or applicable compliance order issued pursuant to this chapter, the surface mining operation has an approved financial assurance in place that the lead agency determines is adequate for reclamation pursuant to the approved reclamation plan, and the surface mining operation has been inspected by the lead agency as provided by Section 2774.

(B) The Division of Mine Reclamation may enter any mine site for which an operator has requested a correction of mine status or a return to idle status pursuant to this section in order to conduct an inspection.

(4) The operator has demonstrated that there are commercially useful mineral reserves remaining at the surface mining operation.

(5) Unpaid fees for years during which the operation's status was not properly reported have been paid to the department.

(6) The operator provides evidence to support any modified production reported on corrected annual reports.

(b) A mining operation that became idle, as defined in Section 2727.1, that failed to prepare and have approved an interim management plan and was thus considered abandoned pursuant to paragraph (6) of subdivision (h) of Section 2770 prior to January 1, 2013, may, without prejudice, be returned to idle status at the request of the operator if an interim management plan is approved by July 1, 2013, and upon lead agency verification of compliance with subdivision (a).

(c) The mine operator shall be responsible for the reasonable costs of an inspection conducted by the Division of Mine Reclamation pursuant to subparagraph (B) of paragraph (3) of subdivision (a).

SEC. 48. Section 2778 of the Public Resources Code is amended to read:

2778. (a) Reclamation plans, reports, applications, and other documents submitted pursuant to this chapter are public records, unless it can be demonstrated to the satisfaction of the lead agency that the release of that information, or part thereof, would reveal production, reserves, or rate of depletion entitled to protection as proprietary information. The lead agency shall identify such proprietary information as a separate part of the application. Proprietary information shall be made available only to the supervisor and to persons authorized in writing by the operator and by the owner.

(b) A copy of all reclamation plans, reports, applications, and other documents submitted pursuant to this chapter shall be furnished to the supervisor by lead agencies on request.

SEC. 49. Section 2796.5 of the Public Resources Code is amended to read:

2796.5. (a) The supervisor, with the consultation of appropriate state and local agencies, may remediate or complete reclamation of abandoned mined lands that meet all of the following requirements:

(1) No operator having both the responsibility and the financial ability to remediate or reclaim the mined lands can be found within the state.

(2) No reclamation plan is in effect for the mined lands.

(3) No financial assurances exist for the mined lands.

(4) The mined lands are abandoned, as that term is used in paragraph (6) of subdivision (h) of Section 2770.

(b) In deciding whether to act pursuant to subdivision (a), the supervisor shall consider whether the action would accomplish one of the following:

(1) The protection of the public health and safety or the environment from the adverse effects of past surface mining operations.

(2) The protection of property that is in danger as a result of past surface mining operations.

(3) The restoration of land and water resources previously degraded by the adverse effects of surface mining operations.

(c) The supervisor may also consider the potential liability to the state in deciding whether to act under this section. Neither the supervisor, the department, nor the state, or its appointees, employees, or agents, in conducting remediation or reclamation under this section, shall be liable under applicable state law, and it is the intent of the Legislature that those persons and entities not be liable for those actions under federal laws.

(d) (1) The remediation or reclamation work performed under this section includes, but is not limited to, supervision of remediation or reclamation activities that, in the supervisor's judgment, is required by the magnitude of the endeavor or the urgency for prompt action needed to protect the public health and safety or the environment. The action may be taken in default of, or in addition to, remedial work by any other person or governmental agency, and regardless of whether injunctive relief is being sought.

(2) The supervisor may authorize the work to be performed through department staff, with the cooperation of any other governmental agency, or through contracts, and may use rented tools or equipment, either with or without operators furnished.

(3) In cases of emergency where quick action is necessary, notwithstanding any other provision of law, the supervisor may enter into oral contracts for the work, and the contracts, whether written or oral, may include provisions for the rental of tools or equipment and in addition the furnishing of labor and materials necessary to accomplish the work. These emergency contracts are exempt from approval by the Department of General Services pursuant to Section 10295 of the Public Contract Code.

(4) The supervisor shall be permitted reasonable access to the abandoned mined lands as necessary to perform any remediation or reclamation work. The access shall be obtained with the consent of the owner or possessor of the property or, if the consent is withheld or otherwise unobtainable, with a warrant duly issued pursuant to the procedure described in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. However, in the event of an emergency affecting the public health or safety, the supervisor may enter the property without consent or the issuance of a warrant.

(e) For any remediation or reclamation work accomplished, or other necessary remedial action taken by any governmental agency, the operator, landowner, and the person or persons who allowed or caused any pollution or nuisance are liable to that governmental agency to the extent of the reasonable costs actually incurred in remediating, reclaiming, or taking other remedial action. The amount of the costs is recoverable in a civil action by, and paid to, the governmental agency and the supervisor to the extent of the supervisor's contribution to the costs of the remediation, reclamation, cleanup, and abatement or other corrective action.

(f) (1) The amount of the costs constitutes a lien on the affected property upon service of a copy of the notice of lien on the owner and upon the recordation of a notice of lien, which identifies the property on which the remediation or reclamation was accomplished, the amount of the lien, and the owner of record of the property, in the office of the county recorder of the county in which the property is located. Upon recordation, the lien has the same force, effect, and priority as a judgment lien, except that it attaches only to the property posted and described in the lien. The lien shall continue for 10 years from the time of the recording of the notice of the lien unless sooner released or otherwise discharged, and may be renewed.

(2) Not later than 45 days after receiving a notice of lien, the owner may petition the court for an order releasing the property from the lien or reducing the amount of the lien. In this court action, the governmental agency that incurred the costs shall establish that the costs were reasonable and necessary. The lien may be foreclosed by an action brought by the supervisor, for a money judgment. Money recovered by a judgment in favor of the supervisor shall be used for the purposes of this chapter.

(g) If the operation has been idle for more than one year without obtaining an approved interim management plan, an application for the review of an interim management plan filed for the purpose of preventing the supervisor from undertaking remediation or reclamation of abandoned mined lands under this section shall be voidable by the lead agency or the board upon notice and hearing by the lead agency or the board. In the event of conflicting determinations, the decision of the board shall prevail.

(h) "Remediate," for the purposes of this section, means to improve conditions so that threat to or damage to public health and safety or the environment are lessened or ameliorated, including the cleanup and abatement of pollution or nuisance or threatened pollution or nuisance.

(i) “Threaten,” for the purposes of this section, means a condition creating a probability of harm, when the probability and potential extent of harm make it reasonably necessary to take action to prevent, reduce, or mitigate damages to persons, property, or the environment.

(j) This section shall apply to abandoned mined lands on which the mining operations were conducted after January 1, 1976.

(k) The supervisor may act under this section only upon the appropriation of funds by the Legislature for the purposes of carrying out this section.

(l) Nothing in this section limits the authority of any state agency under any other law or regulation to enforce or administer any cleanup or abatement activity.

SEC. 50. Section 2814 of the Public Resources Code is amended to read:

2814. The earthquake preparedness activities established under this chapter shall be carried out by the Office of Emergency Services. The commission and Office of Emergency Services shall work together and use appropriate scientific information and recommendations provided by the survey. Other arrangements to coordinate the activities established by this chapter shall be made, through mutual agreement, by the commission and the Office of Emergency Services. A local advisory board shall be established to provide advice and guidance on project activities in the Counties of San Diego, Imperial, and Santa Barbara.

SEC. 51. Section 3008 of the Public Resources Code is amended to read:

3008. (a) “Well” means any oil or gas well or well for the discovery of oil or gas; any well on lands producing or reasonably presumed to contain oil or gas; any well drilled for the purpose of injecting fluids or gas for stimulating oil or gas recovery, repressuring or pressure maintenance of oil or gas reservoirs, or disposing of waste fluids from an oil or gas field; any well used to inject or withdraw gas from an underground storage facility; or any well drilled within or adjacent to an oil or gas pool for the purpose of obtaining water to be used in production stimulation or repressuring operations.

(b) “Prospect well” or “exploratory well” means any well drilled to extend a field or explore a new, potentially productive reservoir.

(c) “Active observation well” means a well being used for the sole purpose of gathering reservoir data, such as pressure or temperature in a reservoir being currently produced or injected by the operator. For a well to be an active observation well, the operator shall demonstrate to the division’s satisfaction that the well fulfills a need for gathering reservoir data, and the operator shall provide the division with a summary report of the type of data collected at least annually or as requested by the division.

(d) “Idle well” means any well that for a period of 24 consecutive months has not either produced oil or natural gas, produced water to be used in production stimulation, or been used for enhanced oil recovery, reservoir pressure management, or injection. For the purpose of determining whether a well is an idle well, production or injection is subject to verification by the division. An idle well continues to be an idle well until it has been properly abandoned in accordance with Section 3208 or it has been shown

to the division's satisfaction that, since the well became an idle well, the well has for a continuous six-month period either maintained production of oil or natural gas, maintained production of water used in production stimulation, or been used for enhanced oil recovery, reservoir pressure management, or injection. An idle well does not include an active observation well.

(e) "Long-term idle well" means any well that has been an idle well for eight or more years.

SEC. 52. Section 3100 of the Public Resources Code is amended to read:

3100. For the purposes of this chapter, the state is divided into districts, the number and boundaries of which shall be fixed by the director. The director and the supervisor shall have the authority to redefine the districts as needed to ensure the efficient administration of this chapter. The director and the supervisor shall solicit public input before revising the districts.

SEC. 53. Section 3103 of the Public Resources Code is amended to read:

3103. The chief deputy shall be a competent engineer or geologist, preferably licensed in the state, and experienced in the development and production of oil and gas.

SEC. 54. Section 3104 of the Public Resources Code is amended to read:

3104. Each district deputy shall be a competent engineer or geologist, preferably licensed in the state, and experienced in the development and production of oil and gas.

SEC. 55. Section 3160 of the Public Resources Code is amended to read:

3160. (a) On or before January 1, 2015, the Secretary of the Natural Resources Agency shall cause to be conducted, and completed, an independent scientific study on well stimulation treatments, including, but not limited to, hydraulic fracturing and acid well stimulation treatments. The scientific study shall evaluate the hazards and risks and potential hazards and risks that well stimulation treatments pose to natural resources and public, occupational, and environmental health and safety. The scientific study shall do all of the following:

(1) Follow the well-established standard protocols of the scientific profession, including, but not limited to, the use of recognized experts, peer review, and publication.

(2) Identify areas with existing and potential conventional and unconventional oil and gas reserves where well stimulation treatments are likely to spur or enable oil and gas exploration and production.

(3) (A) Evaluate all aspects and effects of well stimulation treatments, including, but not limited to, the well stimulation treatment, additive and water transportation to and from the well site, mixing and handling of the well stimulation treatment fluids and additives onsite, the use and potential for use of nontoxic additives and the use or reuse of treated or produced water in well stimulation treatment fluids, and flowback fluids and the handling, treatment, and disposal of flowback fluids and other materials, if any, generated by the treatment. Specifically, the potential for the use of recycled water in well stimulation treatments, including appropriate water quality requirements and available treatment technologies, shall be evaluated.

Well stimulation treatments include, but are not limited to, hydraulic fracturing and acid well stimulation treatments.

(B) Review and evaluate acid matrix stimulation treatments, including the range of acid volumes applied per treated foot and total acid volumes used in treatments, types of acids, acid concentration, and other chemicals used in the treatments.

(4) Consider, at a minimum, atmospheric emissions, including potential greenhouse gas emissions, the potential degradation of air quality, potential impacts on wildlife, native plants, and habitat, including habitat fragmentation, potential water and surface contamination, potential noise pollution, induced seismicity, and the ultimate disposition, transport, transformation, and toxicology of well stimulation treatments, including acid well stimulation fluids, hydraulic fracturing fluids, and waste hydraulic fracturing fluids and acid well stimulation in the environment.

(5) Identify and evaluate the geologic features present in the vicinity of a well, including the well bore, that should be taken into consideration in the design of a proposed well stimulation treatment.

(6) Include a hazard assessment and risk analysis addressing occupational and environmental exposures to well stimulation treatments, including hydraulic fracturing treatments, hydraulic fracturing treatment-related processes, acid well stimulation treatments, acid well stimulation treatment-related processes, and the corresponding impacts on public health and safety with the participation of the Office of Environmental Health Hazard Assessment.

(7) Clearly identify where additional information is necessary to inform and improve the analyses.

(b) (1) (A) On or before January 1, 2015, the division, in consultation with the Department of Toxic Substances Control, the State Air Resources Board, the State Water Resources Control Board, the Department of Resources Recycling and Recovery, and any local air districts and regional water quality control boards in areas where well stimulation treatments, including acid well stimulation treatments and hydraulic fracturing treatments, may occur, shall adopt rules and regulations specific to well stimulation treatments. The rules and regulations shall include, but are not limited to, revisions, as needed, to the rules and regulations governing construction of wells and well casings to ensure integrity of wells, well casings, and the geologic and hydrologic isolation of the oil and gas formation during and following well stimulation treatments, and full disclosure of the composition and disposition of well stimulation fluids, including, but not limited to, hydraulic fracturing fluids, acid well stimulation fluids, and flowback fluids.

(B) The rules and regulations shall additionally include provisions for an independent entity or person to perform the notification requirements pursuant to paragraph (6) of subdivision (d), for the operator to provide for baseline and followup water testing upon request as specified in paragraph (7) of subdivision (d).

(C) (i) In order to identify the acid matrix stimulation treatments that are subject to this section, the rules and regulations shall establish threshold values for acid volume applied per treated foot of any individual stage of the well or for total acid volume of the treatment, or both, based upon a quantitative assessment of the risks posed by acid matrix stimulation treatments that exceed the specified threshold value or values in order to prevent, as far as possible, damage to life, health, property, and natural resources pursuant to Section 3106.

(ii) On or before January 1, 2020, the division shall review and evaluate the threshold values for acid volume applied per treated foot and total acid volume of the treatment, based upon data collected in the state, for acid matrix stimulation treatments. The division shall revise the values through the regulatory process, if necessary, based upon the best available scientific information, including the results of the independent scientific study pursuant to subparagraph (B) of paragraph (3) of subdivision (a).

(2) Full disclosure of the composition and disposition of well stimulation fluids, including, but not limited to, hydraulic fracturing fluids and acid stimulation treatment fluids, shall, at a minimum, include:

(A) The date of the well stimulation treatment.

(B) A complete list of the names, Chemical Abstract Service (CAS) numbers, and maximum concentration, in percent by mass, of each and every chemical constituent of the well stimulation treatment fluids used. If a CAS number does not exist for a chemical constituent, the well owner or operator may provide another unique identifier, if available.

(C) The trade name, the supplier, concentration, and a brief description of the intended purpose of each additive contained in the well stimulation treatment fluid.

(D) The total volume of base fluid used during the well stimulation treatment, and the identification of whether the base fluid is water suitable for irrigation or domestic purposes, water not suitable for irrigation or domestic purposes, or a fluid other than water.

(E) The source, volume, and specific composition and disposition of all water, including, but not limited to, all water used as base fluid during the well stimulation treatment and recovered from the well following the well stimulation treatment that is not otherwise reported as produced water pursuant to Section 3227. Any repeated reuse of treated or untreated water for well stimulation treatments and well stimulation treatment-related activities shall be identified.

(F) The specific composition and disposition of all well stimulation treatment fluids, including waste fluids, other than water.

(G) Any radiological components or tracers injected into the well as part of, or in order to evaluate, the well stimulation treatment, a description of the recovery method, if any, for those components or tracers, the recovery rate, and specific disposal information for recovered components or tracers.

(H) The radioactivity of the recovered well stimulation fluids.

(I) The location of the portion of the well subject to the well stimulation treatment and the extent of the fracturing or other modification, if any, surrounding the well induced by the treatment.

(c) (1) Through the consultation process described in paragraph (1) of subdivision (b), the division shall collaboratively identify and delineate the existing statutory authority and regulatory responsibility relating to well stimulation treatments and well stimulation treatment-related activities of the Department of Toxic Substances Control, the State Air Resources Board, any local air districts, the State Water Resources Control Board, the Department of Resources Recycling and Recovery, any regional water quality control board, and other public entities, as applicable. This shall specify how the respective authority, responsibility, and notification and reporting requirements associated with well stimulation treatments and well stimulation treatment-related activities are divided among each public entity.

(2) On or before January 1, 2015, the division shall enter into formal agreements with the Department of Toxic Substances Control, the State Air Resources Board, any local air districts where well stimulation treatments may occur, the State Water Resources Control Board, the Department of Resources Recycling and Recovery, and any regional water quality control board where well stimulation treatments may occur, clearly delineating respective authority, responsibility, and notification and reporting requirements associated with well stimulation treatments and well stimulation treatment-related activities, including air and water quality monitoring, in order to promote regulatory transparency and accountability.

(3) The agreements under paragraph (2) shall specify the appropriate public entity responsible for air and water quality monitoring and the safe and lawful disposal of materials in landfills, include trade secret handling protocols, if necessary, and provide for ready public access to information related to well stimulation treatments and related activities.

(4) Regulations, if necessary, shall be revised appropriately to incorporate the agreements under paragraph (2).

(d) (1) Notwithstanding any other law or regulation, prior to performing a well stimulation treatment on a well, the operator shall apply for a permit to perform a well stimulation treatment with the supervisor or district deputy. The well stimulation treatment permit application shall contain the pertinent data the supervisor requires on printed forms supplied by the division or on other forms acceptable to the supervisor. The information provided in the well stimulation treatment permit application shall include, but is not limited to, the following:

(A) The well identification number and location.

(B) The time period during which the well stimulation treatment is planned to occur.

(C) A water management plan that shall include all of the following:

(i) An estimate of the amount of water to be used in the treatment. Estimates of water to be recycled following the well stimulation treatment may be included.

(ii) The anticipated source of the water to be used in the treatment.

(iii) The disposal method identified for the recovered water in the flowback fluid from the treatment that is not produced water included in the statement pursuant to Section 3227.

(D) A complete list of the names, Chemical Abstract Service (CAS) numbers, and estimated concentrations, in percent by mass, of each and every chemical constituent of the well stimulation fluids anticipated to be used in the treatment. If a CAS number does not exist for a chemical constituent, the well owner or operator may provide another unique identifier, if available.

(E) The planned location of the well stimulation treatment on the well bore, the estimated length, height, and direction of the induced fractures or other planned modification, if any, and the location of existing wells, including plugged and abandoned wells, that may be impacted by these fractures and modifications.

(F) A groundwater monitoring plan. Required groundwater monitoring in the vicinity of the well subject to the well stimulation treatment shall be satisfied by one of the following:

(i) The well is located within the boundaries of an existing oil or gas field-specific or regional monitoring program developed pursuant to Section 10783 of the Water Code.

(ii) The well is located within the boundaries of an existing oil or gas field-specific or regional monitoring program developed and implemented by the well owner or operator meeting the model criteria established pursuant to Section 10783 of the Water Code.

(iii) Through a well-specific monitoring plan implemented by the owner or operator meeting the model criteria established pursuant to Section 10783 of the Water Code, and submitted to the appropriate regional water board for review.

(G) The estimated amount of treatment-generated waste materials that are not reported in subparagraph (C) and an identified disposal method for the waste materials.

(2) (A) At the supervisor's discretion, and if applied for concurrently, the well stimulation treatment permit described in this section may be combined with the well drilling and related operation notice of intent required pursuant to Section 3203 into a single combined authorization. The portion of the combined authorization applicable to well stimulation shall meet all of the requirements of a well stimulation treatment permit pursuant to this section.

(B) The time period available for approval of the combined authorization applicable to well stimulation is subject to the terms of this section, and not Section 3203.

(3) (A) The supervisor or district deputy shall review the well stimulation treatment permit application and may approve the permit if the application is complete. An incomplete application shall not be approved.

(B) A well stimulation treatment or repeat well stimulation treatment shall not be performed on any well without a valid permit that the supervisor or district deputy has approved.

(C) In considering the permit application, the supervisor shall evaluate the quantifiable risk of the well stimulation treatment.

(D) In the absence of state implementation of a regional groundwater monitoring program pursuant to paragraph (1) of subdivision (h) of Section 10783 of the Water Code, the supervisor or district deputy may approve a permit application for well stimulation treatment pursuant to subparagraph (A) prior to the approval by the State Water Resources Control Board or a regional water quality control board of an area-specific groundwater monitoring program developed by an owner or operator pursuant to paragraph (2) of subdivision (h) of Section 10783 of the Water Code, but the well stimulation treatment shall not commence until the state board or the regional board approves the area-specific groundwater monitoring program.

(4) The well stimulation treatment permit shall expire one year from the date that the permit is issued.

(5) Within five business days of issuing a permit to perform a well stimulation treatment, the division shall provide a copy of the permit to the appropriate regional water quality control board or boards and to the local planning entity where the well, including its subsurface portion, is located. The division shall also post the permit on the publicly accessible portion of its Internet Web site within five business days of issuing a permit.

(6) (A) It is the policy of the state that a copy of the approved well stimulation treatment permit and information on the available water sampling and testing be provided to every tenant of the surface property and every surface property owner or authorized agent of that owner whose property line location is one of the following:

(i) Within a 1,500 foot radius of the wellhead.

(ii) Within 500 feet from the horizontal projection of all subsurface portions of the designated well to the surface.

(B) (i) The well owner or operator shall identify the area requiring notification and shall contract with an independent entity or person who is responsible for, and shall perform, the notification required pursuant to subparagraph (A).

(ii) The independent entity or person shall identify the individuals notified, the method of notification, the date of the notification, a list of those notified, and shall provide a list of this information to the division.

(iii) The performance of the independent entity or persons shall be subject to review and audit by the division.

(C) A well stimulation treatment shall not commence before 30 calendar days after the permit copies pursuant to subparagraph (A) are provided.

(7) (A) A property owner notified pursuant to paragraph (6) may request water quality sampling and testing from a designated qualified contractor on any water well suitable for drinking or irrigation purposes and on any surface water suitable for drinking or irrigation purposes as follows:

(i) Baseline measurements prior to the commencement of the well stimulation treatment.

(ii) Followup measurements after the well stimulation treatment on the same schedule as the pressure testing of the well casing of the treated well.

(B) The State Water Resources Control Board shall designate one or more qualified independent third-party contractor or contractors that adhere to board-specified standards and protocols to perform the water sampling and testing. The well owner or operator shall pay for the sampling and testing. The sampling and testing performed shall be subject to audit and review by the State Water Resources Control Board or applicable regional water quality control board, as appropriate.

(C) The results of the water testing shall be provided to the division, appropriate regional water board, and the property owner or authorized agent. A tenant notified pursuant to paragraph (6) shall receive information on the results of the water testing to the extent authorized by his or her lease and, where the tenant has lawful use of the ground or surface water identified in subparagraph (A), the tenant may independently contract for similar groundwater or surface water testing.

(8) The division shall retain a list of the entities and property owners notified pursuant to paragraphs (5) and (6).

(9) The operator shall provide notice to the division at least 72 hours prior to the actual start of the well stimulation treatment in order for the division to witness the treatment.

(e) The Secretary of the Natural Resources Agency shall notify the Joint Legislative Budget Committee and the chairs of the Assembly Natural Resources, Senate Environmental Quality, and Senate Natural Resources and Water Committees on the progress of the independent scientific study on well stimulation and related activities. The first progress report shall be provided to the committees on or before April 1, 2014, and progress reports shall continue every four months thereafter until the independent study is completed, including a peer review of the study by independent scientific experts.

(f) If a well stimulation treatment is performed on a well, a supplier that performs any part of the stimulation or provides additives directly to the operator for a well stimulation treatment shall furnish the operator with information suitable for public disclosure needed for the operator to comply with subdivision (g). This information shall be provided as soon as possible but no later than 30 days following the conclusion of the well stimulation treatment.

(g) Within 60 days following cessation of a well stimulation treatment on a well, the operator shall post or cause to have posted to an Internet Web site designated or maintained by the division and accessible to the public, all of the well stimulation fluid composition and disposition information required to be collected pursuant to rules and regulations adopted under subdivision (b), including well identification number and location. This shall include the collected water quality data, which the operator shall report electronically to the State Water Resources Control Board.

(h) The operator is responsible for compliance with this section.

(i) (1) All geologic features within a distance reflecting an appropriate safety factor of the fracture zone for well stimulation treatments that fracture the formation and that have the potential to either limit or facilitate the migration of fluids outside of the fracture zone shall be identified and added to the well history. Geologic features include seismic faults identified by the California Geologic Survey.

(2) For the purposes of this section, the “fracture zone” is defined as the volume surrounding the well bore where fractures were created or enhanced by the well stimulation treatment. The safety factor shall be at least five and may vary depending upon geologic knowledge.

(3) The division shall review the geologic features important to assessing well stimulation treatments identified in the independent study pursuant to paragraph (5) of subdivision (a). Upon completion of the review, the division shall revise the regulations governing the reporting of geologic features pursuant to this subdivision accordingly.

(j) (1) Public disclosure of well stimulation treatment fluid information claimed to contain trade secrets is governed by Section 1060 of the Evidence Code, or the Uniform Trade Secrets Act (Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code), and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(2) Notwithstanding any other law or regulation, none of the following information shall be protected as a trade secret:

(A) The identities of the chemical constituents of additives, including CAS identification numbers.

(B) The concentrations of the additives in the well stimulation treatment fluids.

(C) Any air or other pollution monitoring data.

(D) Health and safety data associated with well stimulation treatment fluids.

(E) The chemical composition of the flowback fluid.

(3) If a trade secret claim is invalid or invalidated, the division shall release the information to the public by revising the information released pursuant to subdivision (g). The supplier shall notify the division of any change in status within 30 days.

(4) (A) If a supplier believes that information regarding a chemical constituent of a well stimulation fluid is a trade secret, the supplier shall nevertheless disclose the information to the division in conjunction with a well stimulation treatment permit application, if not previously disclosed, within 30 days following cessation of a well stimulation on a well, and shall notify the division in writing of that belief.

(B) A trade secret claim shall not be made after initial disclosure of the information to the division.

(C) To comply with the public disclosure requirements of this section, the supplier shall indicate where trade secret information has been withheld and provide substitute information for public disclosure. The substitute information shall be a list, in any order, of the chemical constituents of the

additive, including CAS identification numbers. The division shall review and approve the supplied substitute information.

(D) This subdivision does not permit a supplier to refuse to disclose the information required pursuant to this section to the division.

(5) In order to substantiate the trade secret claim, the supplier shall provide information to the division that shows all of the following:

(A) The extent to which the trade secret information is known by the supplier's employees and others involved in the supplier's business and outside the supplier's business.

(B) The measures taken by the supplier to guard the secrecy of the trade secret information.

(C) The value of the trade secret information to the supplier and its competitors.

(D) The amount of effort or money the supplier expended developing the trade secret information and the ease or difficulty with which the trade secret information could be acquired or duplicated by others.

(6) If the division determines that the information provided in support of a request for trade secret protection pursuant to paragraph (5) is incomplete, the division shall notify the supplier and the supplier shall have 30 days to complete the submission. An incomplete submission does not meet the substantive criteria for trade secret designation.

(7) If the division determines that the information provided in support of a request for trade secret protection does not meet the substantive criteria for trade secret designation, the department shall notify the supplier by certified mail of its determination. The division shall release the information to the public, but not earlier than 60 days after the date of mailing the determination, unless, prior to the expiration of the 60-day period, the supplier obtains an action in an appropriate court for a declaratory judgment that the information is subject to protection or for a preliminary injunction prohibiting disclosure of the information to the public and provides notice to the division of the court order.

(8) The supplier is not required to disclose trade secret information to the operator.

(9) Upon receipt of a request for the release of trade secret information to the public, the following procedure applies:

(A) The division shall notify the supplier of the request in writing by certified mail, return receipt requested.

(B) The division shall release the information to the public, but not earlier than 60 days after the date of mailing the notice of the request for information, unless, prior to the expiration of the 60-day period, the supplier obtains an action in an appropriate court for a declaratory judgment that the information is subject to protection or for a preliminary injunction prohibiting disclosure of the information to the public and provides notice to the division of that action.

(10) The division shall develop a timely procedure to provide trade secret information in the following circumstances:

(A) To an officer or employee of the division, the state, local governments, including, but not limited to, local air districts, or the United States, in connection with the official duties of that officer or employee, to a health professional under any law for the protection of health, or to contractors with the division or other government entities and their employees if, in the opinion of the division, disclosure is necessary and required for the satisfactory performance of a contract, for performance of work, or to protect health and safety.

(B) To a health professional in the event of an emergency or to diagnose or treat a patient.

(C) In order to protect public health, to any health professional, toxicologist, or epidemiologist who is employed in the field of public health and who provides a written statement of need. The written statement of need shall include the public health purposes of the disclosure and shall explain the reason the disclosure of the specific chemical and its concentration is required.

(D) A health professional may share trade secret information with other persons as may be professionally necessary, in order to diagnose or treat a patient, including, but not limited to, the patient and other health professionals, subject to state and federal laws restricting disclosure of medical records including, but not limited to, Chapter 2 (commencing with Section 56.10) of Part 2.6 of Division 1 of the Civil Code.

(E) For purposes of this paragraph, “health professional” means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, the Osteopathic Initiative Act, the Chiropractic Initiative Act, or the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act (Division 2.5 (commencing with Section 1797) of the Health and Safety Code).

(F) A person in possession of, or access to, confidential trade secret information pursuant to the provisions of this subdivision may disclose this information to any person who is authorized to receive it. A written confidentiality agreement shall not be required.

(k) A well granted confidential status pursuant to Section 3234 shall not be required to disclose well stimulation treatment fluid information pursuant to subdivision (g) until the confidential status of the well ceases. Notwithstanding the confidential status of a well, it is public information that a well will be or has been subject to a well stimulation treatment.

(l) The division shall perform random periodic spot check inspections to ensure that the information provided on well stimulation treatments is accurately reported, including that the estimates provided prior to the commencement of the well stimulation treatment are reasonably consistent with the well history.

(m) Where the division shares jurisdiction over a well or the well stimulation treatment on a well with a federal entity, the division’s rules and regulations shall apply in addition to all applicable federal laws and regulations.

(n) This article does not relieve the division or any other agency from complying with any other provision of existing laws, regulations, and orders.

(o) Well stimulation treatments used for routine maintenance of wells associated with underground storage facilities where natural gas is injected into and withdrawn from depleted or partially depleted oil or gas reservoirs pursuant to subdivision (a) of Section 3403.5 are not subject to this section.

SEC. 56. Section 3215 of the Public Resources Code is amended to read:

3215. (a) Within 60 days after the date of cessation of drilling, rework, well stimulation treatment, or abandonment operations, or the date of suspension of operations, the operator shall file with the district deputy, in a form approved by the supervisor, true copies of the log, core record, and history of work performed, and, if made, true and reproducible copies of all electrical, physical, or chemical logs, tests, or surveys. Upon a showing of hardship, the supervisor may extend the time within which to comply with this section for a period not to exceed 60 additional days.

(b) The supervisor shall include information or electronic links to information provided pursuant to subdivision (g) of Section 3160 on existing publicly accessible maps on the division's Internet Web site, and make the information available such that well stimulation treatment and related information are associated with each specific well. If data is reported on an Internet Web site not maintained by the division pursuant to paragraph (2) of subdivision (g) of Section 3160, the division shall provide electronic links to that Internet Web site. The public shall be able to search and sort the hydraulic well stimulation and related information by at least the following criteria:

- (1) Geographic area.
- (2) Additive.
- (3) Chemical constituent.
- (4) Chemical Abstract Service number.
- (5) Time period.
- (6) Operator.

(c) Notwithstanding Section 10231.5 of the Government Code, on or before July 30 of each year, the supervisor shall, in compliance with Section 9795 of the Government Code, prepare and transmit to the Legislature a comprehensive report on well stimulation treatments in the exploration and production of oil and gas resources in California. The report shall include aggregated data of all of the information required to be reported pursuant to Section 3160 reported by the district, county, and operator. The report also shall include relevant additional information, as necessary, including, but not limited to, all of the following:

- (1) Aggregated data detailing the disposition of any produced water from wells that have undergone well stimulation treatments.
- (2) Aggregated data describing the formations where wells have received well stimulation treatments including the range of safety factors used and fracture zone lengths.
- (3) The number of emergency responses to a spill or release associated with a well stimulation treatment.

(4) Aggregated data detailing the number of times trade secret information was not provided to the public, by county and by each company, in the preceding year.

(5) Data detailing the loss of well and well casing integrity in the preceding year for wells that have undergone well stimulation treatment. For comparative purposes, data detailing the loss of well and well casing integrity in the preceding year for all wells shall also be provided. The cause of each well and well casing failure, if known, shall also be provided.

(6) The number of spot check inspections conducted pursuant to subdivision (l) of Section 3160, including the number of inspections where the composition of well stimulation fluids were verified and the results of those inspections.

(7) The number of well stimulation treatments witnessed by the division.

(8) The number of enforcement actions associated with well stimulation treatments, including, but not limited to, notices of deficiency, notices of violation, civil or criminal enforcement actions, and any penalties assessed.

(d) The report shall be made publicly available and an electronic version shall be available on the division's Internet Web site.

SEC. 57. Section 8301 of the Public Resources Code is amended to read:

8301. The commission, on application therefor by a duly authorized agent, may convey to the United States a tract of land that does not exceed 10 acres, belonging to the state and covered by navigable waters, for the site of a lighthouse, beacon, or other aid to navigation.

SEC. 58. Section 9853 of the Vehicle Code is amended to read:

9853. (a) The owner of each vessel requiring numbering by this state shall file an initial application for a number with the department or with an agent authorized by the department on forms approved by the department. The forms shall be prepared in cooperation with the Division of Boating and Waterways. The application shall contain the true name and address of the owner and of the legal owner, if any, and the hull identification number of the vessel as may be required by the department. The application shall be signed by the owner of the vessel and shall be accompanied by a fee of nine dollars (\$9), in addition to the fees required under subdivision (b).

(b) (1) Whenever the fee for original registration of a vessel becomes due between January 1 and December 31 of any even-numbered year, the application shall be accompanied by a fee of ten dollars (\$10), in addition to any other fees that are then due and payable.

(2) Whenever the fee for original registration of a vessel becomes due, or is filed with the department, between January 1 and December 31 of any odd-numbered year, the application shall be accompanied by a fee of twenty dollars (\$20) in addition to any other fees that are then due and payable.

(c) The department shall additionally collect a quagga and zebra mussel infestation prevention fee in an amount established by the Division of Boating and Waterways pursuant to Section 675 of the Harbors and Navigation Code.

(d) The department shall provide documentation of its administrative costs pursuant to this section to the Division of Boating and Waterways.

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