

AMENDED IN ASSEMBLY JUNE 3, 2015

AMENDED IN ASSEMBLY MAY 5, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1142**

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**Introduced by Assembly Member Gray**

February 27, 2015

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An act to amend Sections 2207, 2773.1, 2774, and 2774.2 of the Public Resources Code, relating to mining and geology.

LEGISLATIVE COUNSEL'S DIGEST

AB 1142, as amended, Gray. Mining and geology: surface mining.

(1) 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 would revise and recast provisions of the act related to financial assurances and, among other things, would require financial assurance cost estimates be submitted for review and include estimates of the time needed to complete reclamation of the mine and require an operator to replace an approved financial assurance only if the financial assurance cost estimate identifies a need to increase the amount of the financial assurance. By adding to the duties of local agencies, this bill would impose a state-mandated local program.

(2) The act requires the owner or operator of a mining operation to forward annually to the Director of Conservation and the lead agency

a report that provides, among other things, proof of annual inspection by the lead agency. The act also requires every lead agency to adopt ordinances that establish procedures for the review and approval of reclamation plans, and, before approving a reclamation plan, to submit the plan to the director. The act requires a lead agency to inspect a surface mining operation within 6 months of receiving a specified report and to conduct an inspection no less than once every calendar year. The act authorizes a lead agency to cause an inspection to be conducted by a state licensed geologist, state licensed civil engineer, state licensed landscape architect, or state licensed forester, as specified.

This bill would revise and recast those provisions and, among other things, would require the owner or operator to provide a copy of the previously completed annual inspection form and a requested date for the next annual inspection by the lead agency, ~~require~~ *authorize* a lead agency to cause an inspection to be conducted by an *unlicensed* employee of the lead agency who ~~has received specified training, meets specified criteria and who, after January 1, 2018, has completed an inspection workshop, as provided,~~ impose new requirements on the lead agency related to the timing of inspections, impose timelines on a lead agency related to the submission of an application for a permit to conduct a surface mining operation, and require the ~~State Geologist to coordinate with the director, board, lead agencies, and interested parties to develop a curriculum for the training of mine inspectors. director to provide an inspection workshop and update workshop for lead agency employees who inspect surface mining operations after January 1, 2018.~~ By adding to the duties of local agencies, this bill would impose a state-mandated local program.

(3) The act requires that the lead agency have primary responsibility in enforcing the act. The act authorizes, in cases where the board is not the lead agency, the director to initiate enforcement actions if the lead agency has been notified by the director, for at least 15 days, of a violation and has not taken appropriate enforcement action, or the director determines there is a violation that presents an imminent and substantial endangerment to the public health or safety or the environment. The act establishes procedures and timelines for an operator to have an order setting administrative penalties reviewed by a legislative body of a lead agency, the board, or a superior court.

This bill, after the expiration of a specified review period, would authorize the director or the board when it acts as a lead agency to apply

to the small claims court or the superior court, as appropriate, for a judgment to collect an unpaid administrative penalty.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

1 SECTION 1. Section 2207 of the Public Resources Code is  
2 amended to read:

3 2207. (a) The owner or the operator of a mining operation  
4 within the state shall forward to the director annually, not later  
5 than a date established by the director, upon forms approved by  
6 the board from time to time, a report that identifies and contains  
7 all of the following:

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

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

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

20 (4) The lead agency.

21 (5) The approval date of the mining operation's reclamation  
22 plan.

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

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

1 (8) A copy of the previously completed annual inspection form  
2 and a requested date for the next annual inspection by the lead  
3 agency.

4 (9) Proof of financial assurances.

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

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

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

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

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

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

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

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

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

32 (c) Subsequent reports shall include only changes in the  
33 information submitted for the items described in subdivision (a),  
34 except that, instead of the approved reclamation plan, the reports  
35 shall include any reclamation plan amendments approved during  
36 the previous year. The reports shall state whether review of a  
37 reclamation plan, financial assurances, or an interim management  
38 plan is pending under subdivision (b), (c), (d), or (h) of Section  
39 2770, or whether an appeal before the board or lead agency  
40 governing body is pending under subdivision (e) or (h) of Section

2770. The director 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 Office 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 director and the lead agency. Any 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 four thousand dollars (\$4,000) 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, beginning with the 2005–06 fiscal year and annually thereafter.

(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

1 be considered by the Office of Administrative Law to be necessary  
2 for the immediate preservation of the public peace, health, safety,  
3 and general welfare.

4 (3) The total revenue generated by the reporting fees may not  
5 exceed, and may be less than, the amount of three million five  
6 hundred thousand dollars (\$3,500,000), as adjusted for the cost of  
7 living as measured by the California Consumer Price Index for all  
8 urban consumers, calendar year averages, using the percentage  
9 change in the previous year, beginning with the 2005–06 fiscal  
10 year and annually thereafter. If the director determines that the  
11 revenue collected during the preceding fiscal year was greater or  
12 less than the cost to operate the program, the board shall adjust  
13 the fees to compensate for the overcollection or undercollection  
14 of revenues.

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

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

37 (ii) Notwithstanding subdivision (j) of Section 2796.5, fees  
38 collected pursuant to clause (i) may also be used to remediate  
39 features of historic abandoned mines and lands that they impact.  
40 For the purposes of this section, historic abandoned mines are

1 mines for which operations have been conducted before January  
2 1, 1976, and include, but are not limited to, historic gold and silver  
3 mines.

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

14 (e) The lead agency, or the board when acting as the lead agency,  
15 may impose a fee upon each mining operation to cover the  
16 reasonable costs incurred in implementing this chapter and Chapter  
17 9 (commencing with Section 2710).

18 (f) For purposes of this section, "mining operation" means a  
19 mining operation of any kind or character whatever in this state,  
20 including, but not limited to, a mining operation that is classified  
21 as a "surface mining operation" as defined in Section 2735, unless  
22 excepted by Section 2714. For the purposes of fee collections only,  
23 "mining operation" may include one or more mines operated by  
24 a single operator or mining company on one or more sites, if the  
25 total annual combined mineral production for all sites is less than  
26 100 troy ounces for precious metals, if precious metals are the  
27 primary mineral commodity produced, or less than 100,000 short  
28 tons if the primary mineral commodity produced is not precious  
29 metals.

30 (g) Any information in reports submitted pursuant to subdivision  
31 (a) that includes or otherwise indicates the total mineral production,  
32 reserves, or rate of depletion of any mining operation may not be  
33 disclosed to any member of the public, as defined in subdivision  
34 (b) of Section 6252 of the Government Code. Other portions of  
35 the reports are public records unless excepted by statute. Statistical  
36 bulletins based on these reports and published under Section 2205  
37 shall be compiled to show, for the state as a whole and separately  
38 for each lead agency, the total of each mineral produced therein.  
39 In order not to disclose the production, reserves, or rate of depletion  
40 from any identifiable mining operation, no production figure shall

1 be published or otherwise disclosed unless that figure is the  
2 aggregated production of not less than three mining operations. If  
3 the production figure for any lead agency would disclose the  
4 production, reserves, or rate of depletion of less than three mining  
5 operations or otherwise permit the reasonable inference of the  
6 production, reserves, or rate of depletion of any identifiable mining  
7 operation, that figure shall be combined with the same figure of  
8 not less than two other lead agencies without regard to the location  
9 of the lead agencies. The bulletin shall be published annually by  
10 June 30 or as soon thereafter as practicable.

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

16 SEC. 2. Section 2773.1 of the Public Resources Code is  
17 amended to read:

18 2773.1. (a) Lead agencies shall require financial assurances  
19 of each surface mining operation to ensure reclamation is  
20 performed in accordance with the surface mining operation's  
21 approved reclamation plan, as follows:

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

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

33 (3) The amount of financial assurances required of a surface  
34 mining operation for any one year shall be reviewed and, if  
35 necessary, adjusted once each calendar year to account for new  
36 lands disturbed by surface mining operations, inflation, and  
37 reclamation of lands accomplished in accordance with the approved  
38 reclamation plan. An operator shall be required to replace an  
39 approved financial assurance mechanism to bond for the  
40 reclamation of the surface mining operation only if the financial



1 assurance cost estimate identifies a need to increase the amount  
2 of the financial assurance mechanism.

3 (4) Financial assurance cost estimates shall be submitted to the  
4 lead agency for review on the form adopted by the board by  
5 regulation pursuant to subdivision (f). The estimates shall include  
6 estimates of the time needed to complete reclamation of the mine  
7 in accordance with the approved reclamation plan, including, but  
8 not limited to, any monitoring studies required by the reclamation  
9 plan.

10 (5) The financial assurances shall be made payable to the lead  
11 agency and the department. Financial assurances that were  
12 approved by the lead agency prior to January 1, 1993, and were  
13 made payable to the State Geologist shall be considered payable  
14 to the department for purposes of this chapter. However, if a surface  
15 mining operation has received approval of its financial assurances  
16 from a public agency other than the lead agency, the lead agency  
17 shall deem those financial assurances adequate for purposes of  
18 this section, or shall credit them toward fulfillment of the financial  
19 assurances required by this section, if they are made payable to  
20 the public agency, the lead agency, and the department and  
21 otherwise meet the requirements of this section. In any event, if a  
22 lead agency and one or more public agencies exercise jurisdiction  
23 over a surface mining operation, the total amount of financial  
24 assurances required by the lead agency and the public agencies  
25 for any one year shall not exceed that amount that is necessary to  
26 perform reclamation of lands remaining disturbed. For purposes  
27 of this paragraph, a "public agency" may include a federal agency.

28 (b) If the lead agency or the board, following a public hearing,  
29 determines that the operator is financially incapable of performing  
30 reclamation in accordance with its approved reclamation plan, or  
31 has abandoned its surface mining operation without commencing  
32 reclamation, either the lead agency or the director shall do all of  
33 the following:

34 (1) Notify the operator by personal service or certified mail that  
35 the lead agency or the director intends to take appropriate action  
36 to forfeit the financial assurances and specify the reasons for so  
37 doing.

38 (2) Allow the operator 60 days to commence or cause the  
39 commencement of reclamation in accordance with its approved  
40 reclamation plan and require that reclamation be completed within

1 the time limits specified in the approved reclamation plan or some  
2 other time period mutually agreed upon by the lead agency or the  
3 director and the operator.

4 (3) Proceed to take appropriate action to require forfeiture of  
5 the financial assurances if the operator does not substantially  
6 comply with paragraph (2).

7 (4) Use the proceeds from the forfeited financial assurances to  
8 conduct and complete reclamation in accordance with the approved  
9 reclamation plan. The financial assurances shall not be used for  
10 any other purpose. The operator is responsible for the costs of  
11 conducting and completing reclamation in accordance with the  
12 approved reclamation plan that are in excess of the proceeds from  
13 the forfeited financial assurances.

14 (c) Financial assurances shall no longer be required of a surface  
15 mining operation, and shall be released, upon written notification  
16 by the lead agency, which shall be forwarded to the operator and  
17 the director, that reclamation has been completed in accordance  
18 with the approved reclamation plan. If a mining operation is sold  
19 or ownership is transferred to another person, the existing financial  
20 assurances shall remain in force and shall not be released by the  
21 lead agency until new financial assurances are secured from the  
22 new owner and have been approved by the lead agency in  
23 accordance with Section 2770.

24 (d) The lead agency shall have primary responsibility to seek  
25 forfeiture of financial assurances and to reclaim mine sites under  
26 subdivision (b). However, in cases where the board is not the lead  
27 agency pursuant to Section 2774.4, the director may act to seek  
28 forfeiture of financial assurances and reclaim mine sites pursuant  
29 to subdivision (b) only if both of the following occurs:

30 (1) The financial incapability of the operator or the abandonment  
31 of the mining operation has come to the attention of the director.

32 (2) The lead agency has been notified in writing by the director  
33 of the financial incapability of the operator or the abandonment  
34 of the mining operation for at least 15 days, the lead agency has  
35 not taken appropriate measures to seek forfeiture of the financial  
36 assurances and reclaim the mine site, and one of the following has  
37 occurred:

38 (A) The lead agency has been notified in writing by the director  
39 that failure to take appropriate measures to seek forfeiture of the

1 financial assurances or to reclaim the mine site shall result in  
2 actions being taken against the lead agency under Section 2774.4.

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

6 (C) The lead agency notifies the director in writing that its good  
7 faith attempts to seek forfeiture of the financial assurances have  
8 not been successful.

9 The director shall comply with subdivision (b) in seeking  
10 forfeiture of financial assurances and reclaiming mine sites.

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

18 (f) On or before March 1, 1993, the board shall adopt guidelines  
19 to implement this section. The guidelines are exempt from the  
20 requirements of the Administrative Procedure Act (Chapter 3.5  
21 (commencing with Section 11340) of Part 1 of Division 3 of Title  
22 2 of the Government Code), and are not subject to review by the  
23 Office of Administrative Law.

24 SEC. 3. Section 2774 of the Public Resources Code is amended  
25 to read:

26 2774. (a) Every lead agency shall adopt ordinances in  
27 accordance with state policy that establish procedures for the  
28 review and approval of reclamation plans and financial assurances  
29 and the issuance of a permit to conduct surface mining operations,  
30 except that any lead agency without an active surface mining  
31 operation in its jurisdiction may defer adopting an implementing  
32 ordinance until the filing of a permit application. The ordinances  
33 shall establish procedures requiring at least one public hearing and  
34 shall be periodically reviewed by the lead agency and revised, as  
35 necessary, to ensure that the ordinances continue to be in  
36 accordance with state policy.

37 (b) Surface mining operations shall be inspected annually, solely  
38 to determine whether the surface mining operation is in compliance  
39 with its reclamation plan as described in subdivision (c) of Section  
40 2772. The lead agency shall cause an inspection to be conducted

1 by a state licensed geologist, state licensed civil engineer, state  
2 licensed landscape architect, state licensed forester, or a lead  
3 agency employee ~~who is a mine inspector qualified pursuant to~~  
4 ~~subdivision (h)~~, who is experienced in land reclamation and who  
5 has not been employed by the surface mining operation being  
6 inspected in any capacity during the previous 12 months, except  
7 that a lead agency employee ~~who is a qualified mine inspector~~ may  
8 inspect surface mining operations conducted by another department  
9 within the local agency. All inspections shall be conducted using  
10 a form developed by the department and approved by the board  
11 that includes the professional licensing and disciplinary information  
12 of the person who conducted the inspection. The operator shall be  
13 solely responsible for the reasonable cost of the inspection. The  
14 lead agency ~~or the inspector qualified pursuant to subdivision (h)~~  
15 shall provide a notice of completion of inspection to the director  
16 within 90 days of conducting the inspection. The notice shall  
17 contain a statement regarding the surface mining operation's  
18 compliance with its approved reclamation plan, as described in  
19 subdivision (c) of Section 2772, a copy of the completed inspection  
20 form, and which aspects of the surface mining operations, if any,  
21 are inconsistent with its approved reclamation plan, as described  
22 in subdivision (c) of Section 2772, and any corrective measures  
23 recommended by the inspector. If the surface mining operation  
24 has a review of its reclamation plan, financial assurances, or an  
25 interim management plan pending under subdivision (b), (c), (d),  
26 or (h) of Section 2770, or an appeal pending before the board or  
27 lead agency governing body under subdivision (e) or (h) of Section  
28 2770, the notice shall so indicate. The lead agency shall forward  
29 to the operator a copy of the notice, a copy of the completed  
30 inspection form, and any supporting documentation, including,  
31 but not limited to, any inspection report prepared by the geologist,  
32 civil engineer, landscape architect, forester, or ~~mine inspector~~  
33 ~~qualified pursuant to subdivision (h)~~ *lead agency employee* who  
34 conducted the inspection.

35 (c) Before approving a surface mining operation's reclamation  
36 plan or financial assurances, or any amendments to the reclamation  
37 plan and adjustments to financial assurances based on an  
38 amendment to a reclamation plan, the lead agency shall submit  
39 the plan, assurances, or amendments to the director for review.  
40 The plan or amendments shall be submitted to the director as early

1 as practicable in order to facilitate review of the plan pursuant to  
2 the California Environmental Quality Act (Division 13  
3 (commencing with Section 21000)). All documentation for that  
4 submission shall be submitted to the director at one time. When  
5 the lead agency submits a reclamation plan or plan amendments  
6 to the director for review, the lead agency shall also submit to the  
7 director, for use in reviewing the reclamation plan or plan  
8 amendments, information from any prior final related document  
9 prepared, adopted, or certified pursuant to the California  
10 Environmental Quality Act (Division 13 (commencing with Section  
11 21000)), and shall submit any other pertinent information. The  
12 lead agency shall certify to the director that the reclamation plan  
13 is considered complete and in substantial compliance with the  
14 applicable requirements of this chapter and Article 1 (commencing  
15 with Section 3500) of Chapter 8 of Division 2 of Title 14 of the  
16 California Code of Regulations and the lead agency's mining  
17 ordinance in effect at the time that the reclamation plan is submitted  
18 to the director for review.

19 (d) (1) The director shall have 30 days from the date of receipt  
20 of a reclamation plan or plan amendments submitted pursuant to  
21 subdivision (c), and 45 days from the date of receipt of financial  
22 assurances submitted pursuant to subdivision (c), to prepare written  
23 comments, if the director so chooses. The lead agency shall  
24 evaluate written comments received from the director relating to  
25 the reclamation plan, plan amendments, or financial assurances  
26 within a reasonable amount of time.

27 (2) The lead agency shall prepare a written response to the  
28 director's comments describing the disposition of the major issues  
29 raised by the director's comments, and submit the lead agency's  
30 proposed response to the director at least 30 days prior to approval  
31 of the reclamation plan, plan amendment, or financial assurance.  
32 The lead agency's response to the director's comments shall  
33 describe whether the lead agency proposes to adopt the director's  
34 comments to the reclamation plan, plan amendment, or financial  
35 assurance. If the lead agency does not propose to adopt the  
36 director's comments, the lead agency shall specify, in detail, why  
37 the lead agency proposes not to adopt the comments. Copies of  
38 any written comments received and responses prepared by the lead  
39 agency shall be forwarded to the operator. The lead agency shall  
40 also give the director at least 30 days' notice of the time, place,

1 and date of the hearing before the lead agency at which time the  
2 reclamation plan, plan amendment, or financial assurance is  
3 scheduled to be approved by the lead agency. If no hearing is  
4 required by this chapter, or by the local ordinance, or other state  
5 law, then the lead agency shall provide 30 days' notice to the  
6 director that it intends to approve the reclamation plan, plan  
7 amendment, or financial assurance. The lead agency shall send to  
8 the director its final response to the director's comments within  
9 30 days following its approval of the reclamation plan, plan  
10 amendment, or financial assurance, along with final approved  
11 copies of those documents, during which period the department  
12 retains all powers, duties, and authorities of this chapter.

13 (3) To the extent there is a conflict between the comments of a  
14 trustee agency or a responsible agency that are based on the  
15 agency's statutory or regulatory authority and the comments of  
16 other commenting agencies that are received by the lead agency  
17 pursuant to the California Environmental Quality Act (Division  
18 13 (commencing with Section 21000)) regarding a reclamation  
19 plan or plan amendments, the lead agency shall consider only the  
20 comments of the trustee agency or responsible agency.

21 (e) (1) If an operator does not request an inspection date on the  
22 annual report filed pursuant to Section 2207, or if the lead agency  
23 is unable to cause the inspection of a given surface mining  
24 operation on the date requested by the operator, the lead agency  
25 shall provide the operator with a minimum of five days' written  
26 notice of a pending inspection or a lesser time period if agreed to  
27 by the operator.

28 (2) Within 30 days of an annual inspection being conducted  
29 pursuant to this section, each operator shall provide an annual  
30 financial assurance cost estimate, on the form developed by the  
31 board by regulation pursuant to subdivision (f) of Section 2773.1,  
32 to the director and the lead agency for review.

33 (3) (A) *Within 60 days of the receipt of an operator's annual*  
34 *financial assurance cost estimate, the lead agency shall do both*  
35 *of the following:*

36 (i) *Review the annual financial assurance cost estimate for*  
37 *adequacy and completeness consistent with Section 2773.1.*

38 (ii) *Submit the annual financial assurance cost estimate to the*  
39 *director for review.*

1     (B) All documentation submitted to the director pursuant to this  
2     paragraph shall be submitted at one time.

3     (C) The lead agency shall provide the director with a  
4     preliminary determination of whether the annual financial  
5     assurance cost estimate submitted pursuant to this paragraph is  
6     adequate and complete consistent with Section 2773.1.

7     ~~(3)~~

8     (4) The director shall have 45 days from the date of receipt of  
9     the operator's annual financial assurance cost estimate from the  
10    lead agency to prepare written comments on the operator's financial  
11    assurances and provide the comments to the lead agency and the  
12    operator. The lead agency shall have 30 days from receipt of the  
13    director's comments to evaluate the written comments received  
14    from the director and provide the director and operator its proposed  
15    response to the director. The lead agency shall accept or reject a  
16    surface mining operation's annual financial assurance cost estimate  
17    within 60 days of receipt of the director's comments or the due  
18    date of the director's comments if comments are not received. The  
19    lead agency shall send to the director its final response to the  
20    director's comments within 30 days of its acceptance of the annual  
21    financial assurance cost estimate.

22    ~~(4)~~

23    (5) If the lead agency determines an operator's annual financial  
24    assurance cost estimate is inadequate, the lead agency shall specify  
25    the reasons for that determination. The operator shall have 30 days  
26    to appeal that denial pursuant to subdivision (e) of Section 2770  
27    or provide a revised financial assurance cost estimate incorporating  
28    the suggested changes to the director and the lead agency for  
29    approval by the lead agency.

30    ~~(5)~~

31    (6) The operator shall provide the director and the lead agency  
32    with a revised financial assurances mechanism within 60 days of  
33    the lead agency's approval. An operator shall be required to replace  
34    an approved financial assurance mechanism to bond for the  
35    reclamation of the surface mining operation only if the financial  
36    assurance cost estimate identifies a need to increase the amount  
37    of the financial assurance mechanism.

38    (f) (1) No later than April 1 of each year, the director shall  
39    provide each lead agency with a notice listing each active or idle  
40    surface mining operation within the lead agency's jurisdiction. For

1 each surface mining operation, the director shall request and the  
2 lead agency shall provide to the director, on a form provided by  
3 the director, no later than July 1 of each year, the following  
4 information:

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

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

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

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

13 (2) The director shall request similar information on any new  
14 or omitted operations, to be provided to the director no later than  
15 July 1 of each year.

16 ~~(3) The form provided by the director shall include the~~  
17 ~~department's current information for each operation. The notice~~  
18 ~~to each lead agency shall include a statement that failure to file~~  
19 ~~with the director the information requested pursuant to this~~  
20 ~~subdivision may be cause for action pursuant to Section 2774.4.~~

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

25 ~~(h) (1) The State Geologist shall coordinate with the director,~~  
26 ~~board, lead agencies, and interested parties to develop a curriculum~~  
27 ~~for the training of mine inspectors. The curriculum shall include,~~  
28 ~~but need not be limited to, all of the following:~~

29 ~~(A) Training on determining revegetative success.~~

30 ~~(B) Evaluating slopes for signs of instability.~~

31 ~~(C) How to properly use the inspection form approved by the~~  
32 ~~board.~~

33 ~~(D) The calculation of financial assurances.~~

34 ~~(E) Considerations for corrective measures.~~

35 ~~(F) Other issues necessary to ensure the consistent inspection~~  
36 ~~of surface mines under this chapter.~~

37 ~~(2) Lead agency employees who inspect~~

38 *(h) (1) After January 1, 2018, a lead agency employee who is*  
39 *not a state-licensed geologist, state-licensed civil engineer,*  
40 *state-licensed landscape architect, or a state-license forester and*



*who inspects surface mining operations under this chapter shall be deemed qualified mine inspectors for up to two years after the State Geologist has finalized the curriculum pursuant to paragraph (1) and the training has been available to lead agency employees. have completed an inspection workshop or an update workshop provided by the director. The director shall provide an adequate transition time period for lead agency inspectors to complete the update workshop if it becomes necessary.*

~~(3) A lead agency employee who has completed the training curriculum developed pursuant to paragraph (1) shall be a qualified mine inspector.~~

~~(4)~~

(2) Nothing in this subdivision shall be construed to affect or impose qualifications or standards on employees designated by a local, state, or federal agency to perform inspections of real property under separate provisions of local, state, or federal law, including, but not limited to, the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code), the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.), and the Fish and Game Code, notwithstanding the fact that *that* informational addenda are submitted to lead agencies pursuant to this chapter in addition to reclamation plans, including materials submitted pursuant to subdivision (d) of Section 2772.

SEC. 4. 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 that legislative body of the lead agency, if the lead agency has issued the order, or the board for orders issued by the director, 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 director and any other relevant evidence which, in the judgment of the legislative body

1 or the board, should be considered to effectuate and implement  
2 the policies of this chapter.

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

7 (d) An order of the legislative body or the board issued under  
8 subdivision (c) shall become effective upon its issuance unless the  
9 operator petitions the superior court for review as provided in  
10 subdivision (e). An order shall be served by personal service or  
11 by certified mail upon the operator. Payment of an administrative  
12 penalty that is specified in an order issued pursuant to subdivision  
13 (c) shall be made to the lead agency or the director within 30 days  
14 of service of the order. However, the payment shall be held in an  
15 interest bearing impound account pending the resolution of a  
16 petition for review filed pursuant to subdivision (e).

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

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

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

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

5 (C) Either of the following:

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

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

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

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

18 SEC. 5. No reimbursement is required by this act pursuant to  
19 Section 6 of Article XIII B of the California Constitution because  
20 a local agency or school district has the authority to levy service  
21 charges, fees, or assessments sufficient to pay for the program or  
22 level of service mandated by this act, within the meaning of Section  
23 17556 of the Government Code.