



**Board for Professional Engineers,  
Land Surveyors, and Geologists**

# Meeting of the Board for Professional Engineers, Land Surveyors, and Geologists

January 14-15, 2016

Thursday, January 14, beginning at 9:00 a.m. and continuing on Friday, January 15, beginning at 9:00 a.m., if necessary

Board for Professional Engineers, Land Surveyors, and Geologists  
2535 Capitol Oaks Drive  
Third Floor Conference Room  
Sacramento, CA 95833



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LAND SURVEYORS, AND GEOLOGISTS

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**JANUARY 14-15, 2016**

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## I. Roll Call to Establish a Quorum

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## II. **Public Comment**

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**NOTE:** The Board cannot take action on items not on the agenda. The Board will also allow for Public Comment during the discussion of each item on the agenda.





### III. **Legislation**

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- A. Discussion of Legislation for 2016: AB 12, AB 320, AB 507, SB 209
- B. Legislative Proposal to Amend Business and Professions Code §7841.2 (GIT Criteria)



**DEADLINES**

JANUARY							
	S	M	T	W	TH	F	S
Interim Recess						1	2
Wk. 1	3	4	5	6	7	8	9
Wk. 2	10	11	12	13	14	15	16
Wk. 3	17	18	19	20	21	22	23
Wk. 4	24	25	26	27	28	29	30
Wk. 1	31						

FEBRUARY							
	S	M	T	W	TH	F	S
Wk. 1		1	2	3	4	5	6
Wk. 2	7	8	9	10	11	12	13
Wk. 3	14	15	16	17	18	19	20
Wk. 4	21	22	23	24	25	26	27
Wk. 1	28	29					

MARCH							
	S	M	T	W	TH	F	S
Wk. 1			1	2	3	4	5
Wk. 2	6	7	8	9	10	11	12
Wk. 3	13	14	15	16	17	18	19
Spring Recess	20	21	22	23	24	25	26
Wk. 4	27	28	29	30	31		

APRIL							
	S	M	T	W	TH	F	S
Wk. 4						1	2
Wk. 1	3	4	5	6	7	8	9
Wk. 2	10	11	12	13	14	15	16
Wk. 3	17	18	19	20	21	22	23
Wk. 4	24	25	26	27	28	29	30

MAY							
	S	M	T	W	TH	F	S
Wk. 1	1	2	3	4	5	6	7
Wk. 2	8	9	10	11	12	13	14
Wk. 3	15	16	17	18	19	20	21
Wk. 4	22	23	24	25	26	27	28
No Hrgs.	29	30	31				

- Jan. 1** Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 4** Legislature reconvenes (J.R. 51(a)(4)).
- Jan. 10** Budget Bill must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 15** Last day for **policy committees** to hear and report to **fiscal committees** fiscal bills introduced in their house in the odd-numbered year. (J.R. 61(b)(1)).
- Jan. 18** Martin Luther King, Jr. Day observed.
- Jan. 22** Last day for any committee to hear and report to the **Floor** bills introduced in their house in 2015 (J.R. 61(b)(2)). Last day to submit **bill requests** to the Office of Legislative Counsel.
- Jan. 31** Last day for each house to pass **bills** introduced in that house in the odd-numbered year (J.R. 61(b)(3)), (Art. IV, Sec. 10(c)).

- Feb. 15** Presidents' Day observed.
- Feb. 19** Last day for bills to be **introduced** (J.R. 61(b)(4), J.R. 54(a)).

- Mar. 17** **Spring Recess** begins upon adjournment (J.R. 51(b)(1)).
- Mar. 28** Legislature reconvenes from Spring Recess (J.R. 51(b)(1)).

- Apr. 1** Cesar Chavez Day observed.
- Apr. 22** Last day for **policy committees** to hear and report to fiscal committees **fiscal bills** introduced in their house (J.R. 61(b)(5)).

- May 6** Last day for **policy committees** to hear and report to the Floor **nonfiscal** bills introduced in their house (J.R. 61(b)(6)).
- May 13** Last day for **policy committees** to meet prior to June 6 (J.R. 61(b)(7)).
- May 27** Last day for **fiscal committees** to hear and report to the Floor bills introduced in their house (J.R. 61(b)(8)). Last day for **fiscal committees** to meet prior to June 6 (J.R. 61(b)(9)).
- May 30** Memorial Day observed.
- May 31 - June 3** **Floor Session only.** No committee may meet for any purpose except Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees (J.R. 61(b)(10), J.R. 61(h)).

\*Holiday schedule subject to final approval by Rules Committee.



## Opposed Legislation

### Assembly Bill 320 (Wood D) **Environmental Engineer**

**Status:** 8/28/2015-Failed Deadline pursuant to Rule 61(a)(11)

**Location:** 8/28/2015-S. 2 YEAR -Senate Appropriations. Suspense file.

**Last Amendment:** 7/8/2015

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Updated 12/28/15**

#### **Staff Analysis: AB 320**

**Bill Summary:** This bill would prohibit a person from using the title "Environmental Engineer" unless the person is licensed as an "Environmental Engineer". This bill would set forth the intent of the Legislature that the Board be responsible for defining Environmental Engineering through rulemaking and that the Board adopt standardized examination materials applicable to Environmental Engineering, as specified.

**Staff Comment:** Introducing an "Environmental Engineer" Title Act will not regulate the practice of environmental engineering; only the use of the title is regulated. Moreover, AB 320 will not prevent a person from practicing environmental engineering; it will only prevent a person from using the title "Environmental Engineer." The legislative intent provision in AB 320 indicates it is necessary for public protection to "regulate this profession." However, this bill would not regulate this profession; it will only restrict a person from using the title. For the last 20 years, the Board has held the position that restricting only the use of the title without also regulating the associated practice does not provide sufficient public protection. AB 320 would require the Board to adopt through the regulatory process a definition of "environmental engineering." The Board believes that the resulting definition would be so narrow in scope due to need to prevent overlap with regulated practices, such as civil engineering and geology, that it would preclude people from having the required experience needed to qualify for licensure.

**Board Position:** Oppose - as amended 7/8/2015.

**Laws:** An act to amend Section 6732 of the Business and Professions Code, relating to engineers.



## BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

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August 11, 2015

The Honorable Ricardo Lara  
Chair, Senate Appropriations Committee  
State Capitol, Room 2206  
Sacramento, CA 95814

Re: Assembly Bill 320 (Wood) – **Oppose**

Dear Chairman Lara:

The Board for Professional Engineers, Land Surveyors, and Geologists (Board) has voted to **OPPOSE** Assembly Bill 320, as amended July 8<sup>th</sup>, 2015, which is scheduled to be heard in the Appropriations Committee on August 17, 2015.

Assembly Bill 320 would add the title “Environmental Engineer” as a Title Act license. The legislative intent provision in AB 320 indicates it is necessary for public protection to “regulate this profession.” However, this bill would not regulate this profession; it will only restrict a person from using the title. AB 320 will not prevent a person from practicing environmental engineering; it will only prevent a person from using the title “Environmental Engineer.”

AB 320 would require the Board to adopt through the regulatory process a definition of “environmental engineering.” It has been estimated that it will cost the Board between \$60,000 and \$150,000 to perform the occupational analysis to develop the definition. Once the definition is adopted, the Board will then be able to decide if the national environmental engineering examination will be appropriate for licensure in California, or if it will need to develop its own examination. If it were to be determined that the national examination is not appropriate and the Board had to develop its own examination, the costs incurred by the Board could range from \$100,000 to \$200,000.

If you have any questions or concerns please contact Kara Williams, Legislative Analyst, at 916.263.5438.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Moore".

RICHARD B. MOORE, PLS  
Executive Officer

cc Members, Senate Appropriations Committee  
Brendan McCarthy Consultant, Senate Appropriations Committee

AMENDED IN SENATE JULY 8, 2015  
AMENDED IN ASSEMBLY APRIL 23, 2015  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 320**

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**Introduced by Assembly Member Wood**

February 13, 2015

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An act to amend Section 6732 of the Business and Professions Code, relating to engineers.

LEGISLATIVE COUNSEL'S DIGEST

AB 320, as amended, Wood. Engineers.

Existing law provides for the licensing and regulation of professional engineers and land surveyors by the Board for Professional Engineers, Land Surveyors, and Geologists in the Department of Consumer Affairs. Existing law prohibits a person from representing himself or herself as an engineer, as described by various titles, unless the person is licensed as an engineer. Existing law makes a violation of those prohibitions a misdemeanor.

This bill would additionally prohibit a person from using the title "environmental engineer" unless the person is licensed as an engineer. The bill would provide legislative findings and declarations in support of the licensure of environmental engineers in California. ~~The bill would permit a licensed civil, electrical, or mechanical engineer to use the title "environmental engineer" without obtaining additional qualifications.~~ The bill would set forth the intent of the Legislature that the board be responsible for defining environmental engineering through rulemaking and that the board adopt standardized examination materials applicable to environmental engineering, as specified.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

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. The Legislature finds and declares all of the  
2 following:

3 (a) Over the past few decades, the study and practice of  
4 environmental engineering has expanded greatly throughout  
5 California and the nation. Many colleges in California have  
6 accredited environmental engineering programs and thousands of  
7 California engineers currently provide essential environmental  
8 engineering services to all levels of government, private industry,  
9 and the public.

10 (b) Despite leading the way in environmental protection and  
11 global climate change remediation programs, the State of California  
12 is an anomaly in that it does not currently offer a pathway for the  
13 licensure of environmental engineers. Forty-eight other states test  
14 and provide a licensing path for environmental engineers. Hawaii  
15 and California currently do not.

16 (c) As programs of environmental mitigation and protection  
17 continue to expand in scope and complexity for our air, water, and  
18 soil testing and certification of environmental engineers is needed  
19 to establish benchmarks for competency to protect and safeguard  
20 the public.

21 (d) The Board for Professional Engineers, Land Surveyors, and  
22 Geologists (BPELSG) safeguards the life, health, property, and  
23 public welfare by regulating the practice of professional  
24 engineering. The BPELSG provides this public service by testing  
25 and licensing individuals, establishing regulations, enforcing laws  
26 and regulations, and providing information so that consumers can  
27 make informed decisions.



1 (e) In the early 1970s, the BPELSG created title acts in the  
2 branches of agriculture, control system, corrosion, fire protection,  
3 manufacturing, nuclear, quality, safety, and traffic. At that time,  
4 the BPELSG did not approve a petition to add an environmental  
5 engineer title act. In 1986, the authority to establish new title  
6 registration branches returned to the Legislature.

7 (f) In California, professional engineers are licensed in the three  
8 practice act categories of civil, electrical, and mechanical  
9 engineering, and licensed in the 10 title act categories of  
10 agricultural, chemical, control system, fire protection, industrial,  
11 manufacturing, metallurgical, nuclear, petroleum, and traffic  
12 engineering.

13 (g) Environmental engineering is the branch of engineering that  
14 understands and applies engineering principles in the areas of solid  
15 waste management, water supply and treatment, wastewater  
16 treatment, air pollution management, hazardous waste management,  
17 and related environmental and public health impact, assessment,  
18 and mitigation including the physical, chemical, and biological  
19 processes by which pollutants form, release, disperse, react, or  
20 neutralize in air, water, or soil.

21 (h) Given the proliferation of the practice of environmental  
22 engineering in the public and private sectors in California, it is  
23 now necessary to create an environmental engineering title act  
24 within the Professional Engineers Act to safeguard life, health,  
25 property, and the public welfare and regulating this profession.

26 (i) It is the intent of the Legislature that the BPELSG will be  
27 responsible for defining “environmental engineering” through  
28 rulemaking, adding to the definitions found in Section 404 of Title  
29 16 of the California Code of Regulations, and using the same  
30 process used to define the other title acts. It is the intent of the  
31 Legislature that the BPELSG will also adopt national standardized  
32 examination materials applicable to environmental engineering,  
33 similar to testing for other branches of engineering.

34 (j) Creating a new environmental engineering title act does not  
35 require the expenditure of state funds. Just as is the case with other  
36 practice and title act licensees, it is the intent of the Legislature  
37 that applicant fees will cover the cost of license and registration.

38 SEC. 2. Section 6732 of the Business and Professions Code is  
39 amended to read:

1 6732. (a) It is unlawful for anyone other than a professional  
 2 engineer licensed under this chapter to stamp or seal any plans,  
 3 specifications, plats, reports, or other documents with the seal or  
 4 stamp of a professional engineer, or in any manner, use the title  
 5 “professional engineer,” “licensed engineer,” “registered engineer,”  
 6 or “consulting engineer,” or any of the following branch titles:  
 7 “agricultural engineer,” “chemical engineer,” “civil engineer,”  
 8 “control system engineer,” “electrical engineer,” “environmental  
 9 engineer,” “fire protection engineer,” “industrial engineer,”  
 10 “mechanical engineer,” “metallurgical engineer,” “nuclear  
 11 engineer,” “petroleum engineer,” or “traffic engineer,” or any  
 12 combination of these words and phrases or abbreviations thereof  
 13 unless licensed under this chapter.

14 (b) ~~Notwithstanding subdivision (a), a professional engineer~~  
 15 ~~licensed as a civil, electrical, or mechanical engineer, may use the~~  
 16 ~~title “environmental engineer” without obtaining additional~~  
 17 ~~qualifications.~~

18 SEC. 3. No reimbursement is required by this act pursuant to  
 19 Section 6 of Article XIII B of the California Constitution because  
 20 the only costs that may be incurred by a local agency or school  
 21 district will be incurred because this act creates a new crime or  
 22 infraction, eliminates a crime or infraction, or changes the penalty  
 23 for a crime or infraction, within the meaning of Section 17556 of  
 24 the Government Code, or changes the definition of a crime within  
 25 the meaning of Section 6 of Article XIII B of the California  
 26 Constitution.

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## Watched Legislation

### Assembly Bill 12 (Cooley D)

**State government: administrative regulations: review**

**Status:** 8/28/2015-Failed Deadline pursuant to Rule 61(a)(11).

**Location:** 8/28/2015-S. 2 YEAR- Senate Appropriations.

**Last Amend:** 8/19/2015

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Updated 12/28/15**

**Staff Analysis: AB 12**

**Bill Summary:** This bill would require every state agency, department, board, bureau or other entity to review and revise regulations to eliminate inconsistent, overlapping, duplicative, and outdated provisions and adopt the revisions as emergency regulations by January 1, 2018. Additionally, this bill would require the Business, Consumer Services, and Housing Agency to submit a report to the Governor and Legislature affirming compliance with these provisions. Non-significant technical amendments were made 8/19/15.

**Staff Comment:** Board staff routinely reviews and revises regulations. We established a legislative and regulatory review committee to complete this workload. Staff anticipate this requirement to be absorbable.

**Board Position:** Watch -as amended 8/19/2015.

**Laws:** An act to amend Section 11349.1.5 of, and to add and repeal Chapter 3.6 (commencing with Section 11366) of Part 1 of Division 3 of Title 2 of, the Government Code, relating to state agency regulations.

AMENDED IN SENATE AUGUST 19, 2015

AMENDED IN ASSEMBLY APRIL 22, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 12**

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**Introduced by Assembly Member Cooley**  
**(Coauthors: Assembly Members Chang, Daly, and Wilk)**  
*(Coauthor: Senator Huff)*

December 1, 2014

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An act to add and repeal Chapter 3.6 (commencing with Section 11366) of Part 1 of Division 3 of Title 2 of the Government Code, relating to state agency regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 12, as amended, Cooley. State government: administrative regulations: review.

Existing law authorizes various state entities to adopt, amend, or repeal regulations for various specified purposes. The Administrative Procedure Act requires the Office of Administrative Law and a state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations.

This bill would, until January 1, 2019, require each state agency to, on or before January 1, 2018, review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided, and report to the Legislature and Governor, as specified.

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

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

1 SECTION 1. Chapter 3.6 (commencing with Section 11366)  
2 is added to Part 1 of Division 3 of Title 2 of the Government Code,  
3 to read:

4  
5 CHAPTER 3.6. REGULATORY REFORM

6  
7 Article 1. Findings and Declarations

8  
9 11366. The Legislature finds and declares all of the following:

10 (a) The Administrative Procedure Act (Chapter 3.5 (commencing  
11 with Section 11340), Chapter 4 (commencing with Section 11370),  
12 Chapter 4.5 (commencing with Section 11400), and Chapter 5  
13 (commencing with Section 11500)) requires agencies and the  
14 Office of Administrative Law to review regulations to ensure their  
15 consistency with law and to consider impacts on the state's  
16 economy and businesses, including small businesses.

17 (b) However, the act does not require agencies to individually  
18 review their regulations to identify overlapping, inconsistent,  
19 duplicative, or out-of-date regulations that may exist.

20 (c) At a time when the state's economy is slowly recovering,  
21 unemployment and underemployment continue to affect all  
22 Californians, especially older workers and younger workers who  
23 received college degrees in the last seven years but are still awaiting  
24 their first great job, and with state government improving but in  
25 need of continued fiscal discipline, it is important that state  
26 agencies systematically undertake to identify, publicly review, and  
27 eliminate overlapping, inconsistent, duplicative, or out-of-date  
28 regulations, both to ensure they more efficiently implement and  
29 enforce laws and to reduce unnecessary and outdated rules and  
30 regulations.

31  
32 Article 2. Definitions

33  
34 11366.1. For the purposes of this chapter, the following  
35 definitions shall apply:

36 (a) "State agency" means a state agency, as defined in Section  
37 11000, except those state agencies or activities described in Section  
38 11340.9.

1 (b) “Regulation” has the same meaning as provided in Section  
2 11342.600.

3  
4 Article 3. State Agency Duties  
5

6 11366.2. On or before January 1, 2018, each state agency shall  
7 do all of the following:

8 (a) Review all provisions of the California Code of Regulations  
9 ~~applicable to, or adopted by,~~ *adopted by* that state agency.

10 (b) Identify any regulations that are duplicative, overlapping,  
11 inconsistent, or out of date.

12 (c) Adopt, amend, or repeal regulations to reconcile or eliminate  
13 any duplication, overlap, inconsistencies, or out-of-date provisions,  
14 and shall comply with the process specified in Article 5  
15 (commencing with Section 11346) of Chapter 3.5, unless the  
16 addition, revision, or deletion is without regulatory effect and may  
17 be done pursuant to Section 100 of Title 1 of the California Code  
18 of Regulations.

19 (d) Hold at least one noticed public hearing, ~~that~~ *which* shall be  
20 noticed on the Internet Web site of the state agency, for the  
21 purposes of accepting public comment on proposed revisions to  
22 its regulations.

23 (e) Notify the appropriate policy and fiscal committees of each  
24 house of the Legislature of the revisions to regulations that the  
25 state agency proposes to make at least 30 days prior to initiating  
26 the process under Article 5 (commencing with Section 11346) of  
27 Chapter 3.5 or Section 100 of Title 1 of the California Code of  
28 Regulations.

29 (g) (1) Report to the Governor and the Legislature on the state  
30 agency’s compliance with this chapter, including the number and  
31 content of regulations the state agency identifies as duplicative,  
32 overlapping, inconsistent, or out of date, and the state agency’s  
33 actions to address those regulations.

34 (2) The report shall be submitted in compliance with Section  
35 9795 of the Government Code.

36 11366.3. (a) On or before January 1, 2018, each agency listed  
37 in Section 12800 shall notify a department, board, or other unit  
38 within that agency of any existing regulations adopted by that  
39 department, board, or other unit that the agency has determined  
40 may be duplicative, overlapping, or inconsistent with a regulation

1 adopted by another department, board, or other unit within that  
2 agency.

3 (b) A department, board, or other unit within an agency shall  
4 notify that agency of revisions to regulations that it proposes to  
5 make at least 90 days prior to a noticed public hearing pursuant to  
6 subdivision (d) of Section 11366.2 and at least 90 days prior to  
7 adoption, amendment, or repeal of the regulations pursuant to  
8 subdivision (c) of Section 11366.2. The agency shall review the  
9 proposed regulations and make recommendations to the  
10 department, board, or other unit within 30 days of receiving the  
11 notification regarding any duplicative, overlapping, or inconsistent  
12 regulation of another department, board, or other unit within the  
13 agency.

14 11366.4. An agency listed in Section 12800 shall notify a state  
15 agency of any existing regulations adopted by that agency that  
16 may duplicate, overlap, or be inconsistent with the state agency's  
17 regulations.

18 11366.45. This chapter shall not be construed to weaken or  
19 undermine in any manner any human health, public or worker  
20 rights, public welfare, environmental, or other protection  
21 established under statute. This chapter shall not be construed to  
22 affect the authority or requirement for an agency to adopt  
23 regulations as provided by statute. Rather, it is the intent of the  
24 Legislature to ensure that state agencies focus more efficiently and  
25 directly on their duties as prescribed by law so as to use scarce  
26 public dollars more efficiently to implement the law, while  
27 achieving equal or improved economic and public benefits.

28  
29 Article 4. Chapter Repeal  
30

31 11366.5. This chapter shall remain in effect only until January  
32 1, 2019, and as of that date is repealed, unless a later enacted  
33 statute, that is enacted before January 1, 2019, deletes or extends  
34 that date.

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# Watched Legislation

## Assembly Bill 507 (Olsen R)

**Department of Consumer Affairs: BreEZe system: annual report.**

**Status:** 8/17/2015-In committee: Set, first hearing. Hearing canceled at the request of author.

**Location:** 7/13/2015 - Senate Business, Professions and Economic Development

**Last Amendment:** 7/9/2015

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Updated 12/28/15**

**Staff Analysis: AB 507**

**Bill Summary:** AB 507 would, on or before March 1, 2016, require the Department of Consumer Affairs to submit an annual report to the Legislature and the Department of Finance that includes, among other things, the department's plans for implementing the BreEZe system at specified regulatory entities included in the departments' 3rd phase of the BreEZe implementation project, including, but not limited to, a timeline for the implementation. This bill contains other related provisions.

**Staff Comment:** This bill would require DCA to submit a report that would include a timeline, total estimated costs and a cost-benefit analysis for the remaining boards and bureaus that have not yet transitioned into the BreEZe system. We are one of the Boards which have not yet transitioned into the BreEZe system.

**Board Position:** Watch – as amended 7/9/15.

**Laws:** An act to add Section 210.5 to the Business and Professions Code, relating to the Department of Consumer Affairs.

AMENDED IN SENATE JULY 9, 2015  
AMENDED IN ASSEMBLY JUNE 1, 2015  
AMENDED IN ASSEMBLY MARCH 26, 2015  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 507**

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**Introduced by Assembly Member Olsen**  
**(Principal coauthor: Assembly Member Gray)**  
**(Coauthors: Assembly Members ~~Chang and Dodd~~ Chang, Dodd,**  
***Obernolte, and Waldron*)**  
**(Coauthor: Senator Bates)**

February 23, 2015

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An act to add Section 210.5 to the Business and Professions Code, relating to the Department of Consumer Affairs, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 507, as amended, Olsen. Department of Consumer Affairs: BreEZe system: annual report.

Existing law authorizes the Department of Consumer Affairs to enter into a contract with a vendor for the licensing and enforcement of the BreEZe system, which is a specified integrated, enterprisewide enforcement case management and licensing system, no sooner than 30 days after written notification to certain committees of the Legislature. Existing law requires the amount of contract funds for the system to be consistent with costs approved by the office of the State Chief Information Office, based on information provided by the department in a specified manne .

This bill would, ~~on and after October 1, 2015,~~ *or before March 1, 2016, or thereafter when available*, require the department to submit an annual report to the Legislature and the Department of Finance that includes, among other things, the department’s plans for implementing the BreEZe system at specified regulatory entities included in the department’s 3rd phase of the BreEZe implementation project, *when available*, including, but not limited to, a timeline for the implementation. *The bill would also require the department to post on its Internet Web site the name of each regulatory entity that is utilizing the BreEZe system once the regulatory entity begins using the BreEZe system.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: no.

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

- 1 SECTION 1. Section 210.5 is added to the Business and
- 2 Professions Code, immediately following Section 210, to read:
- 3 210.5. (a) ~~On and after October 1, 2015,~~ *or before March 1,*
- 4 *2016, or thereafter when available*, the department shall submit
- 5 an annual report to the Legislature and the Department of Finance
- 6 that includes ~~all of~~ the following:
- 7 (1) The department’s plan for implementing the BreEZe system
- 8 at the regulatory entities in the department’s third phase of the
- 9 implementation project, including, but not limited to, a timeline
- 10 for implementation.
- 11 (2) The total estimated costs of implementation of the BreEZe
- 12 system at the regulatory entities in the department’s third phase
- 13 of the implementation project and the results of any *related*
- 14 cost-benefit analysis the department ~~conducted for the third phase~~
- 15 ~~of the implementation project.~~ *conducts.*
- 16 (3) A description of ~~whether and to what extent the BreEZe~~
- 17 ~~system will achieve any operational efficiencie resulting from~~
- 18 *achieved as a result of BreEZe* implementation by the ~~boards and~~
- 19 regulatory entities within the department’s ~~jurisdiction.~~ *jurisdiction,*
- 20 *if available.*
- 21 (b) The report described in subdivision (a) shall be submitted
- 22 in compliance with Section 9795 of the Government Code.

1 (c) The department shall post on its Internet Web site the name  
2 of each regulatory entity that is utilizing the BreEZe system once  
3 the regulatory entity begins using the BreEZe system.

4 (e)

5 (d) For purposes of this section, “the regulatory entities in the  
6 department’s third phase of the implementation project” includes  
7 all of the following:

8 (1) Acupuncture Board.

9 (2) Board for Professional Engineers, Land Surveyors, and  
10 Geologists.

11 (3) Bureau of Automotive Repair.

12 (4) Bureau of Electronic and Appliance Repair, Home  
13 Furnishings, and Thermal Insulation.

14 (5) Bureau for Private Postsecondary Education.

15 (6) California Architects Board.

16 (7) California Board of Accountancy.

17 (8) California State Board of Pharmacy.

18 (9) Cemetery and Funeral Bureau.

19 (10) Contractors’ State License Board.

20 (11) Court Reporters Board of California.

21 (12) Landscape Architects Technical Committee.

22 (13) Professional Fiduciaries Bureau.

23 (14) Speech-Language Pathology and Audiology and Hearing  
24 Aid Dispensers Board.

25 (15) State Athletic Commission.

26 (16) State Board of Chiropractic Examiners.

27 (17) State Board of Guide Dogs for the Blind.

28 (18) Structural Pest Control Board.

29 (19) Telephone Medical Advice Services Bureau.

30 SEC. 2. This act is an urgency statute necessary for the  
31 immediate preservation of the public peace, health, or safety within  
32 the meaning of Article IV of the Constitution and shall go into  
33 immediate effect. The facts constituting the necessity are:

34 Because of the circumstances surrounding the implementation  
35 of the BreEZe system, and in order to ensure that healing arts and  
36 other professionals are licensed in a timely and efficient manner,  
37 it is necessary that this act take effect immediately.

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## Supported Legislation

### Senate Bill 209 (Pavley D)

**Surface mining: inspections: financial assurances: reclamation plans.**

**Status:** 9/2/2015- 9/11/2015-Failed Deadline pursuant to Rule 61(a)(14).

**Location:** 9/11/2015-A. 2 YEAR-Assembly floor.

**Last Amendment:** 9/4/2015

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

### **Updated 12/28/15 Staff Analysis: SB 209**

**Bill Summary:** This bill would require the Department of Conservation to offer continuing educational opportunities for lead agency employees to become certified, as appropriate, by the department to inspect surface mining operations. The bill would prohibit a lead agency that operates a surface mining operation from having an inspection performed by a lead agency employee, as specified, unless that employee has become certified as a surface mining operation inspector within the previous 2 years. This bill would revise the proof of financial assurances to be submitted with the annual report. The bill would define “financial assurances” to be the combination of an approved current financial assurance cost estimate and a financial assurance mechanism, as specified. The bill would require the inspections be conducted by a state licensed geologist, state licensed civil engineer, or state licensed geophysicist, as specified.

**Staff Comment:** According to the coalition headed by the sponsor, The Sierra Fund, the state has a strong interest in ensuring the mine operations in the state are operated in compliance with its locally issued permit which protects the state’s water and air from contamination, and to ensure that when the mine ceases operation that it is remediated to be ready for a beneficial end use. The coalition is participating in the ongoing stakeholder process and recognizes Governor Brown’s call to reform SMARA “top to bottom.”

**Board Position:** support- as amended 9/4/2015.

**Laws:** An act to amend Section 607, 2006.5, 2207, 2772, 2773.1, and 2774 of the Public Resources Code, relating to surface mining

AMENDED IN ASSEMBLY SEPTEMBER 4, 2015

AMENDED IN ASSEMBLY SEPTEMBER 2, 2015

AMENDED IN ASSEMBLY AUGUST 17, 2015

AMENDED IN ASSEMBLY JULY 16, 2015

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE MAY 12, 2015

AMENDED IN SENATE MARCH 19, 2015

**SENATE BILL**

**No. 209**

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**Introduced by Senator Pavley**

February 11, 2015

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An act to amend Sections 607, 2207, 2714, ~~2733~~, 2770, 2772, ~~2773.1~~, and 2774, ~~2774.1~~, ~~2774.4~~, and 2776 of, and to add Sections ~~2006.5~~, ~~2736~~, ~~2772.1~~, ~~2006.5~~ and ~~2773.4~~ 2773.1.5 to, the Public Resources Code, relating to surface mining.

LEGISLATIVE COUNSEL'S DIGEST

SB 209, as amended, Pavley. Surface mining: inspections: financial assurances: reclamation plans.

(1) Existing law establishes the Office of Mine Reclamation within the Department of Conservation. Existing law requires the State Mining and Geology Board to impose, by regulation, an annual reporting fee on the operators of all active and idle mining operations. Existing law requires the maximum amount of the annual fee imposed on each mining operation to not exceed \$4,000. Existing law limits the maximum amount of the total revenue generated from the reporting fee to no more than \$3,500,000, as specified

This bill would instead establish the Division of Mines within the department under the direction of the Supervisor of Mines and Reclamation. The bill also would raise the maximum amount of the annual reporting fee to \$10,000 per mining operation, except as specified. The bill would raise the maximum amount of the total revenue generated from the reporting fee to \$8,000,000, as specified

(2) 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 specific 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 the approval of reclamation plans and, among other things, would require a reclamation plan filed by an operator of a surface mining operation with a lead agency to include specified reclamation maps; require a lead agency, when submitting a proposed final reclamation plan to the Director of Conservation, to incorporate specified items of information and documents in the submitted reclamation plan within certain timeframes; and require the director to take certain actions upon receiving a proposed final reclamation plan. *maps and would require a borrow pit operated by a lead agency to include a specified interim management plan.* By adding to the duties of a local government acting as a lead agency under the act, this bill would impose a state-mandated local program.

~~This bill also would require a lead agency or the board to conduct a specified public hearing if the lead agency has evidence that an operator is financially incapable of performing reclamation in accordance with its approved reclamation plan or that the operator has abandoned a surface mining operation without completing reclamation and to take appropriate actions to seize the operator's financial assurances~~

This bill would revise and recast provisions of the act related to the proof of financial assurances, as defined and, among other things, would require an operator to establish an appropriate financial assurance mechanism within 30 days of a sale or transfer of a surface mining operation; require a lead agency to submit a surface mining operation's proposed financial assurance cost estimate with a specified report to the director for review, as specified; and require the director to take certain actions upon receiving a financial assurance cost estimate from a lead agency. By adding to the duties of a local government acting as

~~a lead agency under the act, this bill would impose a state-mandated local program. allow an operator, after the board has adopted a specified regulation, to include in a financial assurance mechanism a corporate financial test, as described~~

~~This bill would require the Department of Conservation and the board, in consultation with the Board for Professional Engineers, Land Surveyors, and Geologists, to adopt regulations that set forth the minimum qualifications for a person conducting an inspection of a surface mining operation, as specified. The bill also would authorize a lead agency to cause an inspection to be conducted by an unlicensed employee who meets specified criteria; impose new requirements on the lead agency relating to the timing of inspections; and require the department to establish, no later than July 1, December 31, 2016, a training program for all surface mine inspectors, as specified. By adding to the duties of a local government acting as a lead agency under the act, this bill would impose a state-mandated local program.~~

(3) 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

(4) This bill would make its operation contingent on the enactment of Assembly Bill 1142 of the 2015–16 Regular Session.

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 607 of the Public Resources Code is
- 2 amended to read:
- 3 607. The work of the department shall be divided into at least
- 4 the following:
- 5 (a) California Geological Survey.
- 6 (b) Division of Oil, Gas, and Geothermal Resources.
- 7 (c) Division of Land Resource Protection.
- 8 (d) Division of Mines.
- 9 SEC. 2. Section 2006.5 is added to the Public Resources Code,
- 10 to read:



1 2006.5. “Supervisor of Mines and Reclamation” means the  
 2 individual directing the Division of Mines established pursuant to  
 3 subdivision (d) of Section 607.

4 SEC. 3. Section 2207 of the Public Resources Code is amended  
 5 to read:

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

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

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

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

22 (4) The lead agency.

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

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

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

29 ~~Proof of annual inspection—~~*A copy of the previously*  
 30 *completed annual inspection form and a requested date, within 12*  
 31 *months of the prior inspection date, for the next annual inspection*  
 32 *by the lead agency.*

33 ~~Proof of the most recently approved financial cost estimate~~  
 34 ~~and the approved financial assurance cost mechanism.~~ *financia*  
 35 *assurances.*

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

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

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

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

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

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

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

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

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

23 (c) Subsequent reports shall include only changes in the  
24 information submitted for the items described in subdivision (a),  
25 except that, instead of the approved reclamation plan, the reports  
26 shall include any reclamation plan amendments approved during  
27 the previous year. The reports shall state whether review of a  
28 reclamation plan, financial assurances, or an interim management  
29 plan is pending under subdivision ~~(b)~~ or (h) of Section 2770, or  
30 whether an appeal before the board or lead agency governing body  
31 is pending under subdivision (e) or (h) of Section 2770. The  
32 director shall notify the person submitting the report and the  
33 owner's designated agent in writing that the report and the fee  
34 required pursuant to subdivision (d) have been received, specify  
35 the mining operation's mine number if one has not been issued by  
36 the Division of Mines, and notify the person and agent of any  
37 deficiencies in the report within 90 days of receipt. That person  
38 or agent shall have 30 days from receipt of the notification to  
39 correct the noted deficiencies and forward the revised report to the  
40 director and the lead agency. Any person who fails to comply with

1 this section, or knowingly provides incorrect or false information  
2 in reports required by this section, may be subject to an  
3 administrative penalty as provided in subdivision (c) of Section  
4 2774.1.

5 (d) (1) The board shall impose, by regulation, pursuant to  
6 paragraph (2), an annual reporting fee on, and method for collecting  
7 annual fees from, each active or idle mining operation. The  
8 maximum fee for any single mining operation may not exceed ten  
9 thousand dollars (\$10,000) annually and may not be less than one  
10 hundred dollars (\$100) annually, as adjusted for the cost of living  
11 as measured by the California Consumer Price Index for all urban  
12 consumers, calendar year averages, using the percentage change  
13 in the previous year, except that the maximum fee for any single  
14 mining operation shall not exceed six thousand dollars (\$6,000)  
15 in the 2016–17 fiscal year and eight thousand dollars (\$8,000) in  
16 the 2017–18 fiscal year.

17 (2) (A) The board shall adopt, by regulation, a schedule of fees  
18 authorized under paragraph (1) to cover the department's cost in  
19 carrying out this section and Chapter 9 (commencing with Section  
20 2710), as reflected in the Governor's proposed Budget, and may  
21 adopt those regulations as emergency regulations. In establishing  
22 the schedule of fees to be paid by each active and idle mining  
23 operation, the fees shall be calculated on an equitable basis  
24 reflecting the size and type of operation. The board shall also  
25 consider the total assessed value of the mining operation, the  
26 acreage disturbed by mining activities, and the acreage subject to  
27 the reclamation plan.

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

37 (3) The total revenue generated by the reporting fees may not  
38 exceed, and may be less than, the amount of eight million dollars  
39 (\$8,000,000), as adjusted for the cost of living as measured by the  
40 California Consumer Price Index for all urban consumers, calendar

1 year averages, using the percentage change in the previous year,  
2 beginning with the 2016–17 fiscal year and annually thereafter. If  
3 the director determines that the revenue collected during the  
4 preceding fiscal year was greater or less than the cost to operate  
5 the program, the board shall adjust the fees to compensate for the  
6 overcollection or undercollection of revenues.

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

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

29 (ii) Notwithstanding subdivision (j) of Section 2796.5, fees  
30 collected pursuant to clause (i) may also be used to remediate  
31 features of historic abandoned mines and lands that they impact.  
32 For the purposes of this section, historic abandoned mines are  
33 mines for which operations have been conducted before January  
34 1, 1976, and include, but are not limited to, historic gold and silver  
35 mines.

36 (5) In case of late payment of the reporting fee, a penalty of not  
37 less than one hundred dollars (\$100) or 10 percent of the amount  
38 due, whichever is greater, plus interest at the rate of 1 ½ percent  
39 per month, computed from the delinquent date of the assessment  
40 until and including the date of payment, shall be assessed. New

1 mining operations that have not submitted a report shall submit a  
2 report prior to commencement of operations. The new operation  
3 shall submit its fee according to the reasonable fee schedule  
4 adopted by the board, and the month that the report is received  
5 shall become that operation's anniversary month.

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

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

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

1 of the lead agencies. The bulletin shall be published annually by  
2 June 30 or as soon thereafter as practicable.

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

8 SEC. 4. Section 2714 of the Public Resources Code is amended  
9 to read:

10 2714. This chapter does not apply to any of the following  
11 activities:

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

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

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

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

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

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

38 (c) Operation of a plant site used for mineral processing,  
39 including associated onsite structures, equipment, machines, tools,  
40 or other materials, including the onsite stockpiling and onsite

1 recovery of mined materials, subject to all of the following  
2 conditions:

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

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

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

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

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

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

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

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

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

30 (i) (1) Surface mining operations conducted on lands owned  
31 or leased, or upon which easements or rights-of-way have been  
32 obtained, by the Department of Water Resources for the purpose  
33 of the State Water Resources Development System or flood control,  
34 and surface mining operations on lands owned or leased, or upon  
35 which easements or rights-of-way have been obtained, by the  
36 Central Valley Flood Protection Board for the purpose of flood  
37 control, if the Department of Water Resources adopts, after  
38 submission to and consultation with, the department, a reclamation  
39 plan for lands affected by these activities, and those lands are  
40 reclaimed in conformance with the standards specified in

1 regulations of the board adopted pursuant to this chapter. The  
2 Department of Water Resources shall provide an annual report to  
3 the department by the date specified by the department on these  
4 mining activities.

5 (2) Nothing in this subdivision shall require the Department of  
6 Water Resources or the Central Valley Flood Protection Board to  
7 obtain a permit or secure approval of a reclamation plan from any  
8 city or county in order to conduct surface mining operations  
9 specified in paragraph (1). Nothing in this subdivision shall  
10 preclude the bringing of an enforcement action pursuant to Section  
11 2774.1, if it is determined that a surface mine operator, acting  
12 under contract with the Department of Water Resources or the  
13 Central Valley Flood Protection Board on lands other than those  
14 owned or leased, or upon which easements or rights-of-way have  
15 been obtained, by the Department of Water Resources or the  
16 Central Valley Flood Protection Board, is otherwise not in  
17 compliance with this chapter.

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

28 (2) This exemption shall be available only if slope stability and  
29 erosion are controlled in accordance with subdivision (f) of Section  
30 3704 and subdivision (d) of Section 3706 of Title 14 of the  
31 California Code of Regulations and, upon closure of the site, the  
32 person closing the site implements, where necessary, revegetation  
33 measures and postclosure uses in consultation with the Department  
34 of Forestry and Fire Protection.

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

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



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

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

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

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

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

12 ~~SEC. 5. Section 2733 of the Public Resourees Code is amended~~  
13 ~~to read:~~

14 ~~2733. "Reclamation" means the combined process of land~~  
15 ~~treatment that minimizes water degradation, air pollution, damage~~  
16 ~~to aquatic or wildlife habitat, flooding, erosion, and other adverse~~  
17 ~~effects from surface mining operations, including adverse surface~~  
18 ~~effects incidental to underground mines, so that mined lands are~~  
19 ~~reclaimed to a usable condition that is readily adaptable for~~  
20 ~~alternate land uses and create no danger to public health or safety.~~  
21 ~~The process may extend to affected lands surrounding mined lands,~~  
22 ~~and may require backfilling, grading, resoiling, revegetation, soil~~  
23 ~~compaction, slope stabilization, or other measures.~~

24 ~~SEC. 6. Section 2736 is added to the Public Resources Code,~~  
25 ~~to read:~~

26 ~~2736. "Financial assurance" means an approved current~~  
27 ~~financial assurance cost estimate and a financial assurance~~  
28 ~~mechanism that is at least equal to the current approved financia-~~  
29 ~~assurance cost estimate.~~

30 ~~SEC. 7. Section 2770 of the Public Resources Code is amended~~  
31 ~~to read:~~

32 ~~2770. (a) Except as provided in this section, a person shall not~~  
33 ~~conduct surface mining operations unless a permit is obtained~~  
34 ~~from, a reclamation plan has been submitted to and approved by,~~  
35 ~~and financial assurances for reclamation have been approved by~~  
36 ~~the lead agency for the operation pursuant to this article.~~

37 ~~(b) A person with an existing surface mining operation who has~~  
38 ~~vested rights pursuant to Section 2776 and who does not have an~~  
39 ~~approved reclamation plan shall submit a reclamation plan to the~~  
40 ~~lead agency not later than March 31, 1988. If a reclamation plan~~

1 application is not on file by March 31, 1988, the continuation of  
2 the surface mining operation is prohibited until a reclamation plan  
3 is submitted to the lead agency.

4 (e) [Reserved]

5 (d) [Reserved]

6 (e) ~~A person who, based on the evidence of the record, can  
7 substantiate that a lead agency has either (1) failed to act according  
8 to due process or has relied on considerations not related to the  
9 specific applicable requirements of Sections 2772, 2773, and  
10 2773.1, and the lead agency surface mining ordinance adopted  
11 pursuant to subdivision (a) of Section 2774, in reaching a decision  
12 to deny approval of a reclamation plan or financial assurances for  
13 reclamation, or (2) failed to act within a reasonable time of receipt  
14 of a completed application, may appeal that action or inaction to  
15 the board.~~

16 (f) ~~The board may decline to hear an appeal if it determines that  
17 the appeal raises no substantial issues related to the lead agency's  
18 review pursuant to this section.~~

19 (g) ~~Appeals that the board does not decline to hear shall be  
20 scheduled and heard at a public hearing within 45 days of the filing  
21 of the appeal or a longer period as may be mutually agreed upon  
22 by the board and the person filing the appeal. In hearing an appeal,  
23 the board shall only determine whether the reclamation plan or the  
24 financial assurances meet the applicable requirements of Sections  
25 2772, 2773, and 2773.1 and the lead agency surface mining  
26 ordinance adopted pursuant to subdivision (a) of Section 2774. A  
27 reclamation plan or financial assurances determined to meet these  
28 requirements shall be approved. A reclamation plan or financial  
29 assurances determined not to meet these requirements shall be  
30 returned to the person filing the appeal with a notice of deficiencies  
31 who shall be granted once only a period of 30 days, or a longer  
32 period mutually agreed upon by the operator and the board, to  
33 correct the noted deficiencies and submit the revised reclamation  
34 plan or the revised financial assurances to the lead agency for  
35 review and approval.~~

36 (h) ~~(1) Within 90 days of a surface mining operation becoming  
37 idle, as defined in Section 2727.1, the operator shall submit to the  
38 lead agency for review and approval an interim management plan.  
39 The review and approval of an interim management plan shall not  
40 be considered a project for purposes of the California~~

1 Environmental Quality Act (Division 13 (commencing with Section  
2 21000)). The approved interim management plan shall be  
3 considered an amendment to the surface mining operation's  
4 approved reclamation plan for purposes of this chapter. The interim  
5 management plan shall provide measures the operator will  
6 implement to maintain the site in compliance with this chapter,  
7 including, but not limited to, all permit conditions.

8 (2) Except for an interim management plan for a borrow pit  
9 surface mining operation owned or operated by the lead agency  
10 solely for use by the lead agency an interim management plan may  
11 remain in effect for a period not to exceed five years, at which  
12 time the lead agency shall do one of the following:

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

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

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

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

36 (5) The lead agency shall approve or deny approval of the  
37 revised interim management plan within 60 days of receipt. If the  
38 lead agency denies approval of the revised interim management  
39 plan, the operator may appeal that action to the lead agency's  
40 governing body, which shall schedule a public hearing within 45

1 days of the filing of the appeal or a longer period mutually agreed  
2 upon by the operator and the governing body.

3 ~~(6) Unless review of an interim management plan is pending  
4 before the lead agency or an appeal is pending before the lead  
5 agency's governing body, a surface mining operation that remains  
6 idle for over one year after becoming idle, as defined in Section  
7 2727.1, without obtaining approval of an interim management plan  
8 shall be considered abandoned and the operator shall commence  
9 and complete reclamation in accordance with the approved  
10 reclamation plan.~~

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

18 ~~(j) Notwithstanding paragraph (1) of subdivision (b) of Section  
19 2774, a lead agency may conduct an inspection of a borrow pit  
20 surface mining operation owned or operated by the lead agency  
21 solely for use by the lead agency once every two calendar years  
22 during a period when the borrow pit surface mining operation is  
23 idle.~~

24 ~~SEC. 8. Section 2772 of the Public Resources Code is amended  
25 to read:~~

26 ~~2772. (a) The reclamation plan shall be filed with the lead  
27 agency, on a form provided by the lead agency, by any person who  
28 owns, leases, or otherwise controls or operates on all or any portion  
29 of any mined lands and who plans to conduct surface mining  
30 operations on the lands.~~

31 ~~(b) In addition to the other requirements for a reclamation plan,  
32 a reclamation plan for a borrow pit surface mining operation owned  
33 or operated by the lead agency solely for use by the lead agency  
34 shall include an interim management plan that shall maintain the  
35 site in compliance with this chapter during a period when the  
36 borrow pit surface mining operation is idle.~~

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

- 1     ~~(1) The name and address of the surface mining operator and~~
- 2     ~~the names and addresses of any persons designated by the operator~~
- 3     ~~as an agent for the service of process.~~
- 4     ~~(2) The anticipated quantity and type of minerals for which the~~
- 5     ~~surface mining operation is to be conducted.~~
- 6     ~~(3) The proposed dates for the initiation of mining operations~~
- 7     ~~and the completion of mining and reclamation of the surface mining~~
- 8     ~~operation.~~
- 9     ~~(4) The maximum anticipated depth of the surface mining~~
- 10    ~~operation.~~
- 11    ~~(5) A reclamation plan map or maps that shall include all of the~~
- 12    ~~following:~~
- 13    ~~(A) Size and legal description of the lands that will be affected~~
- 14    ~~by the surface mining operation and the names and addresses of~~
- 15    ~~the owners of all surface interests and mineral interests in the lands.~~
- 16    ~~(B) Clearly defined and accurately drawn property lines,~~
- 17    ~~setbacks, easements, and the reclamation plan boundary.~~
- 18    ~~(C) Existing topography and final topography depicted with~~
- 19    ~~contour lines drawn at appropriate intervals for the site's~~
- 20    ~~conditions.~~
- 21    ~~(D) Detailed geologic description of the area of the surface~~
- 22    ~~mining operation.~~
- 23    ~~(E) Location of railroads, utility facilities, access roads,~~
- 24    ~~temporary roads to be reclaimed, and any roads remaining for the~~
- 25    ~~approved end use.~~
- 26    ~~(F) All maps, diagrams, or calculations that require preparation~~
- 27    ~~in accordance with the Professional Engineers Act (Chapter 7~~
- 28    ~~(commencing with Section 6700) of Division 3 of the Business~~
- 29    ~~and Professions Code), the Geologist and Geophysicist Act~~
- 30    ~~(Chapter 12.5 (commencing with Section 7800) of Division 3 of~~
- 31    ~~the Business and Professions Code), or the Professional Land~~
- 32    ~~Surveyors' Act (Chapter 15 (commencing with Section 8700) of~~
- 33    ~~Division 3 of the Business and Professions Code) shall be prepared~~
- 34    ~~by an appropriately licensed California-licensed professional, shall~~
- 35    ~~include his or her license number and name, and shall bear the~~
- 36    ~~signature and seal of the licensee.~~
- 37    ~~(6) A description of and a plan for the type of surface mining~~
- 38    ~~to be employed and a time schedule that will provide for the~~
- 39    ~~completion of surface mining on each segment of the mined lands~~
- 40    ~~so that reclamation can be initiated at the earliest possible time on~~

1 those portions of the mined lands that will not be subject to further  
2 disturbance by the surface mining operation.

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

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

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

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

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

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

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

22 ~~(d) An item of information or a document required pursuant to~~  
23 ~~this chapter, including subdivision (c), that has already been~~  
24 ~~prepared as part of a permit application for the surface mining~~  
25 ~~operation, or as part of an environmental document prepared for~~  
26 ~~the project pursuant to the California Environmental Quality Act~~  
27 ~~(Division 13 (commencing with Section 21000)), or required as a~~  
28 ~~condition of approval, shall be included in the reclamation plan.~~  
29 ~~Regulatory aspects that are solely of a local concern shall not be~~  
30 ~~included in the reclamation plan. To the extent the information or~~  
31 ~~document referenced in the reclamation plan is used to meet the~~  
32 ~~requirements of this chapter, including subdivision (c), the~~  
33 ~~information or document shall become part of the reclamation plan~~  
34 ~~and shall be subject to all other requirements of this chapter.~~

35 ~~(e) This section does not limit or expand the Supervisor of Mines~~  
36 ~~and Reclamation's authority or responsibility to review a document~~  
37 ~~in accordance with the California Environmental Quality Act~~  
38 ~~(Division 13 (commencing with Section 21000)).~~

39 ~~SEC. 9. Section 2772.1 is added to the Public Resources Code,~~  
40 ~~to read:~~

1     ~~2772.1. (a) (1) Prior to approving a surface mining operation's~~  
2 ~~reclamation plan or plan amendments, the lead agency shall submit~~  
3 ~~the proposed final reclamation plan or amendments to the director~~  
4 ~~for review. All documentation for the submission shall be submitted~~  
5 ~~to the director at one time.~~

6     ~~(2) An item of information or a document required pursuant to~~  
7 ~~this chapter, including subdivision (c) of Section 2772, that has~~  
8 ~~been prepared as part of a permit application for the surface mining~~  
9 ~~operation, not including aspects that are solely of a local concern,~~  
10 ~~or as part of an environmental document prepared for the project~~  
11 ~~pursuant to the California Environmental Quality Act (Division~~  
12 ~~13 (commencing with Section 21000)) shall be incorporated into~~  
13 ~~the proposed final reclamation plan. An item of information or a~~  
14 ~~document that is incorporated shall be inserted into the~~  
15 ~~corresponding section of the proposed final reclamation plan or~~  
16 ~~attached to the proposed final reclamation plan with a specific~~  
17 ~~reference in the corresponding section of the proposed final~~  
18 ~~reclamation plan. Any information or document incorporated into~~  
19 ~~the proposed final reclamation plan shall become part of the~~  
20 ~~approved reclamation plan and shall be subject to all other~~  
21 ~~requirements of this article.~~

22     ~~(3) The lead agency shall certify to the director that the proposed~~  
23 ~~final reclamation plan is a complete submission and is in~~  
24 ~~compliance with all of the following:~~

25     ~~(A) The applicable requirements of this chapter, including~~  
26 ~~subdivision (c) of Section 2772.~~

27     ~~(B) Article 1 (commencing with Section 3500) of Chapter 8 of~~  
28 ~~Division 2 of Title 14 of the California Code of Regulations.~~

29     ~~(C) The lead agency's surface mining ordinance in effect at the~~  
30 ~~time that the proposed final reclamation plan is submitted to the~~  
31 ~~director for review.~~

32     ~~(b) (1) The director shall have 30 days from the date of receipt~~  
33 ~~of a proposed final reclamation plan or plan amendments submitted~~  
34 ~~pursuant to subdivision (a) to prepare written comments if the~~  
35 ~~director chooses.~~

36     ~~(2) If the director determines that the lead agency's submission~~  
37 ~~pursuant to subdivision (a) is incomplete or that the submission~~  
38 ~~includes maps, diagrams, or calculations that require preparation~~  
39 ~~by an appropriately licensed California-licensed professional, the~~  
40 ~~director shall return the submission to the lead agency. The director~~

1 shall identify the incomplete components or those maps, diagrams,  
2 or calculations that require completion by an appropriately licensed  
3 California-licensed professional. The review by the director  
4 pursuant to paragraph (1) shall not begin until the director receives  
5 a complete submission, including maps, diagrams, or calculations  
6 prepared by an appropriately licensed California-licensed  
7 professional.

8 (3) (A) The lead agency shall review and evaluate and prepare  
9 a written response to the director's comments received pursuant  
10 to paragraph (1) describing the disposition of the major issues  
11 raised by the comments. The lead agency shall submit the lead  
12 agency's response to the director at least 30 days prior to the  
13 intended approval of the proposed final reclamation plan or plan  
14 amendment. The lead agency's response shall include either of the  
15 following:

16 (i) A description of how the lead agency proposes to adopt the  
17 director's comments to the proposed final reclamation plan or plan  
18 amendment.

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

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

24 (C) (i) The lead agency shall give the director at least 30 days'  
25 notice of the time, place, and date of the hearing at which the  
26 proposed final reclamation plan or plan amendment is scheduled  
27 to be approved by the lead agency.

28 (ii) If no hearing is required by this chapter, the local ordinance,  
29 or other state law, the lead agency shall provide 30 days' notice  
30 to the director that the lead agency intends to approve the proposed  
31 final reclamation plan or plan amendment.

32 (D) Within 30 days following approval of the reclamation plan,  
33 the lead agency shall provide the director notice of the approval  
34 and a statement that identifies any additional conditions or other  
35 permit requirements imposed upon the surface mining operation.  
36 During that time, the department shall retain all of its powers,  
37 duties, and authorities pursuant to this chapter. The lead agency  
38 shall provide, as soon as practicable, but no later than 60 days after  
39 approval of the reclamation plan, both of the following:



1 (i) ~~Certified copies of all maps, diagrams, or calculations signed~~  
 2 ~~and sealed by an appropriately licensed California-licensed~~  
 3 ~~professional.~~

4 (ii) ~~A certified copy of the approved reclamation plan~~  
 5 ~~incorporating all approved modifications to the proposed fina-~~  
 6 ~~reclamation plan.~~

7 (4) ~~To the extent there is a conflict between the comments of a~~  
 8 ~~trustee agency or a responsible agency that are based on that~~  
 9 ~~agency's statutory or regulatory authority and the comments of~~  
 10 ~~other commenting agencies that are received by the lead agency~~  
 11 ~~pursuant to the California Environmental Quality Act (Division~~  
 12 ~~13 (commencing with Section 21000)) regarding a reclamation~~  
 13 ~~plan or plan amendments, the lead agency shall consider only the~~  
 14 ~~comments of the trustee agency or responsible agency.~~

15 (e) ~~A lead agency shall notify the director of the filing of an~~  
 16 ~~application for a permit to conduct surface mining operations~~  
 17 ~~within 30 days of an application being filed with the lead agency.~~  
 18 ~~By July 1, 1991, each lead agency shall submit to the director for~~  
 19 ~~every active or idle mining operation within its jurisdiction, a copy~~  
 20 ~~of the mining permit required pursuant to Section 2774, and any~~  
 21 ~~conditions or amendments to those permits. By July 1 of each~~  
 22 ~~subsequent year, the lead agency shall submit to the director for~~  
 23 ~~each active or idle mining operation a copy of any permit or~~  
 24 ~~reclamation plan amendments, as applicable, or a statement that~~  
 25 ~~there have been no changes during the previous year. Failure to~~  
 26 ~~file with the director the information required pursuant to this~~  
 27 ~~section shall be a cause for action under Section 2774.4.~~

28 (d) ~~This section does not limit or expand the Supervisor of Mines~~  
 29 ~~and Reclamation's authority or responsibility to review a document~~  
 30 ~~in accordance with the California Environmental Quality Act~~  
 31 ~~(Division 13 (commencing with Section 21000)).~~

32 ~~SEC. 10. Section 2773.1 of the Public Resources Code is~~  
 33 ~~amended to read:~~

34 ~~2773.1. (a) Lead agencies shall require financial assurances~~  
 35 ~~of each surface mining operation to ensure reclamation is~~  
 36 ~~performed in accordance with the surface mining operation's~~  
 37 ~~approved reclamation plan, as follows:~~

38 (1) ~~Financial assurance mechanisms may take the form of surety~~  
 39 ~~bonds executed by an admitted surety insurer, as defined in~~  
 40 ~~subdivision (a) of Section 995.120 of the Code of Civil Procedure,~~

1 irrevocable letters of credit, trust funds, or other forms of financial  
2 assurances specified by the board pursuant to subdivision (c) that  
3 are at least equal to the annual financial assurance cost estimate  
4 that the lead agency reasonably determines are adequate to perform  
5 reclamation in accordance with the surface mining operation's  
6 approved reclamation plan.

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

10 (3) The amount of financial assurances required of a surface  
11 mining operation for any one year shall be adjusted annually to  
12 account for new lands disturbed by surface mining operations,  
13 inflation, and reclamation of lands accomplished in accordance  
14 with the approved reclamation plan.

15 (4) Each financial assurance mechanism shall be made payable  
16 to the lead agency and the department. A financial assurance  
17 mechanism shall not be released without the written consent of  
18 the lead agency and the department. Financial assurance  
19 mechanisms that were approved by the lead agency prior to January  
20 1, 1993, and were made payable to the State Geologist shall be  
21 considered payable to the department for purposes of this chapter.  
22 However, if a surface mining operation has received approval of  
23 its financial assurances from a public agency other than the lead  
24 agency, the lead agency shall deem those financial assurances  
25 adequate for purposes of this section, or shall credit them toward  
26 fulfillment of the financial assurances required by this section, if  
27 they are made payable to the public agency, the lead agency, and  
28 the department and otherwise meet the requirements of this section.  
29 In any event, if a lead agency and one or more public agencies  
30 exercise jurisdiction over a surface mining operation, the total  
31 amount of financial assurances required by the lead agency and  
32 the public agencies for any one year shall not exceed that amount  
33 which is necessary to perform reclamation of lands remaining  
34 disturbed. For purposes of this paragraph, a "public agency" may  
35 include a federal agency.

36 (b) (1) If the lead agency has evidence that an operator is  
37 financially incapable of performing reclamation in accordance  
38 with its approved reclamation plan or that the operator has  
39 abandoned the surface mining operation without completing  
40 reclamation, the lead agency or the board shall conduct a public

1 hearing with notice of the hearing provided to the operator and the  
2 department at least 30 days prior to the hearing.

3 (2) If the lead agency or the board, following the public hearing,  
4 determines that the operator is financially incapable of performing  
5 reclamation in accordance with its approved reclamation plan, or  
6 has abandoned its surface mining operation without completing  
7 reclamation, either the lead agency or the director shall do all of  
8 the following:

9 (A) Notify the operator by personal service or certified mail  
10 that the lead agency or the director intends to take appropriate  
11 action to seize the financial assurances and specify the reasons for  
12 so doing.

13 (B) (i) Proceed to take appropriate action to seize the financia-  
14 assurances and use the proceeds from the financial assurances to  
15 conduct and complete reclamation in accordance with the approved  
16 reclamation plan.

17 (ii) If the surface mining operation cannot be reclaimed in  
18 accordance with its approved reclamation plan or the financia-  
19 assurances are inadequate to reclaim in accordance with the  
20 approved reclamation plan, the lead agency or the director may  
21 use the proceeds of the financial assurances to reclaim or remediate  
22 mining disturbances as appropriate for the site conditions, as  
23 determined by the lead agency and the director. The proceeds of  
24 the financial assurances shall not be used for a y other purpose.

25 (iii) The operator is responsible for the costs of conducting and  
26 completing reclamation in accordance with the approved  
27 reclamation plan or a remediation plan developed pursuant to this  
28 section, as determined to be appropriate by the lead agency and  
29 director, that are in excess of the proceeds of the financia-  
30 assurances.

31 (e) Financial assurances shall no longer be required of a surface  
32 mining operation, and shall be released, upon written concurrence  
33 by the lead agency and the director, which shall be forwarded to  
34 the operator, that reclamation has been completed in accordance  
35 with the approved reclamation plan. If a surface mining operation  
36 is sold or ownership is transferred to another person, the existing  
37 financial assurances shall remain in force and shall not be released  
38 by the lead agency and the director until new financial assurances  
39 are secured from the new owner and have been approved by the  
40 lead agency in accordance with Sections 2770 and 2773.1. Within

1 30 days of the sale or transfer of the surface mining operation, the  
2 new operator shall establish an appropriate financial assurance  
3 mechanism and sign a new statement pursuant to paragraph (10)  
4 of subdivision (c) of Section 2772.

5 (d) The lead agency shall have primary responsibility to seize  
6 financial assurances and to reclaim mine sites under subdivision  
7 (b). However, in cases where the board is not the lead agency  
8 pursuant to Section 2774.4, the director may act to seize financial  
9 assurances and reclaim mine sites pursuant to subdivision (b) only  
10 if both of the following occur:

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

13 (2) The lead agency has been notified in writing by the director  
14 of the financial incapability of the operator or the abandonment  
15 of the mining operation for at least 15 days, the lead agency has  
16 not taken appropriate measures to seize the financial assurances  
17 and reclaim the mine site, and one of the following has occurred:

18 (A) The lead agency has been notified in writing by the director  
19 that failure to take appropriate measures to seize the financial  
20 assurances or to reclaim the mine site shall result in actions being  
21 taken against the lead agency under Section 2774.4.

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

25 (C) The lead agency notifies the director in writing that its good  
26 faith attempts to seize the financial assurances have not been  
27 successful.

28 The director shall comply with subdivision (b) in seizing the  
29 financial assurances and reclaiming mine sites.

30 (e) The board may adopt regulations specifying financial  
31 assurance mechanisms other than surety bonds, irrevocable letters  
32 of credit, and trust funds that the board determines are reasonably  
33 available and adequate to ensure reclamation pursuant to this  
34 chapter, but these mechanisms shall not include solely financial  
35 tests or surety bonds executed by one or more personal sureties.  
36 These mechanisms may include reclamation bond pool programs  
37 or corporate financial tests, as described in subdivision (f),  
38 combined with additional financial assurance mechanisms, as  
39 identified in this section, that together ensure the completion of  
40 reclamation in accordance with the approved reclamation plan.

1 (f) (1) Corporate financial tests shall provide for no more than  
 2 75 percent of the financial assurance cost estimate approved within  
 3 the last year. Use of a financial test shall meet all of the following  
 4 requirements:

5 (A) Be annually approved by both the lead agency and the  
 6 director and may be disallowed by either the lead agency or the  
 7 director.

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

11 (2) Corporate financial tests shall only be allowed after the board  
 12 adopts a regulation that establishes a comprehensive analysis of a  
 13 corporation's financial status that includes financial net worth;  
 14 income; liabilities, including other environmental assurances; and  
 15 assets located within the United States. The regulation shall include  
 16 additional measures to provide the lead agency or the director with  
 17 the recovery of costs associated with the full collection and  
 18 satisfaction of the financial assurance mechanisms.

19 (3) A surface mining operation shall have at least 25 percent of  
 20 the financial assurance cost estimate or four million dollars  
 21 (\$4,000,000), whichever is greater, in an acceptable financial  
 22 assurance mechanism other than a corporate financial test.

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

27 (g) On or before March 1, 1993, the board shall adopt guidelines  
 28 to implement this section. The guidelines are exempt from the  
 29 requirements of the Administrative Procedure Act (Chapter 3.5  
 30 (commencing with Section 11340) of Part 1 of Division 3 of Title  
 31 2 of the Government Code) and are not subject to review by the  
 32 Office of Administrative Law.

33 SEC. 11. Section 2773.4 is added to the Public Resources Code,  
 34 to read:

35 2773.4. (a) (1) Prior to approving the financial assurances of  
 36 a surface mining operation pursuant to Sections 2770 and 2773.1,  
 37 the lead agency shall submit the proposed financial assurance cost  
 38 estimate, with a statement that it is adequate to reclaim the surface  
 39 mining operation in accordance with the approved reclamation  
 40 plan, to the director for review. All documentation for that

1 submission shall be complete and submitted to the director at one  
2 time:

3 (2) If the director determines that the lead agency's submission  
4 pursuant to paragraph (1) is incomplete, the director shall return  
5 the submission to the lead agency, specifically noting those  
6 elements of the cost estimate that are incomplete. The review by  
7 the director pursuant to subdivision (b) shall not begin until the  
8 director receives a complete submission:

9 (b) The director shall have 45 days from the date of receipt of  
10 a complete financial assurance cost estimate pursuant to subdivision  
11 (a) to prepare written comments or request a reassessment if the  
12 director chooses:

13 (e) (1) (A) If the director can demonstrate that the proposed  
14 financial assurance cost estimate is inadequate to reclaim the  
15 surface mining operation in accordance with the approved  
16 reclamation plan, the director may request a reassessment by the  
17 lead agency:

18 (B) If the director requests a reassessment of a financial  
19 assurance cost estimate, the lead agency shall reassess and resubmit  
20 the proposed financial assurance cost estimate within 45 days of  
21 the director's request:

22 (2) If the lead agency or operator disagrees with the director's  
23 request for reassessment, or the director determines that a financial  
24 assurance cost estimate resubmitted pursuant to this subdivision  
25 remains inadequate, the lead agency, operator, or director may  
26 request a review hearing by the board:

27 (3) Financial assurance cost estimates shall not be approved  
28 pending the director's request for reassessment pursuant to this  
29 subdivision:

30 (4) Financial assurance cost estimates determined to be  
31 inadequate by the board shall be returned to the lead agency for  
32 reassessment and resubmission to the director pursuant to this  
33 section. Financial assurance cost estimates determined to be  
34 adequate by the board may be approved by the lead agency:

35 (d) (1) The lead agency shall prepare a written response to the  
36 director's comments, if any, describing the disposition of the major  
37 issues raised by the director's comments. The lead agency shall  
38 submit its proposed response to the director at least 30 days prior  
39 to approval of the financial assurance cost estimate and shall  
40 include either of the following:

1     (A) A description of how the lead agency proposes to adopt the  
2 director's comments to the financial assurance cost estimate  
3     (B) A detailed description of the reasons why the lead agency  
4 proposes not to adopt the director's comments.  
5     (2) Copies of any written comments received and responses  
6 prepared by the lead agency pursuant to paragraph (1) shall be  
7 provided to the operator.  
8     (3) (A) The lead agency shall give the director at least 30 days'  
9 notice of the time, place, and date of the hearing at which the  
10 financial assurance cost estimate is scheduled to be approved by  
11 the lead agency.  
12     (B) If no hearing is required by this chapter, the local ordinance,  
13 or other state law, then the lead agency shall provide 30 days'  
14 notice to the director that it intends to approve the financial  
15 assurance cost estimate.  
16     (4) The lead agency shall send to the director its final response  
17 to the director's comments within 30 days of its approval of the  
18 financial assurance cost estimate during which time the department  
19 retains all of its powers, duties, and authorities pursuant to this  
20 chapter.  
21     (e) (1) Within 30 days of the lead agency's approval of the  
22 financial assurance cost estimate, the operator shall provide the  
23 lead agency and the director an appropriate financial assurance  
24 mechanism that is at least equal to the approved financial assurance  
25 cost estimate.  
26     (2) Within 15 days of receipt of a financial assurance  
27 mechanism, the lead agency and the director shall review the  
28 financial assurance mechanism to determine if the type of  
29 mechanism, including release instructions, complies with the  
30 requirements of this chapter.  
31     (3) Financial assurance mechanisms determined to be  
32 noncompliant with this chapter shall be returned to the operator,  
33 with instructions on how to correct the type or release instructions  
34 of the financial assurance mechanism.  
35     (f) To the extent there is a conflict between the comments of a  
36 trustee agency or a responsible agency that are based on that  
37 agency's statutory or regulatory authority and the comments of  
38 other commenting agencies that are received by the lead agency  
39 pursuant to the California Environmental Quality Act (Division  
40 13 (commencing with Section 21000)) regarding a financia-

1 assurance cost estimate or financial assurance mechanism, the lead  
2 agency shall consider only the comments of the trustee agency or  
3 responsible agency.

4 (g) The review of existing financial assurances shall not be  
5 considered a project for the purposes of the California  
6 Environmental Quality Act (Division 13 (commencing with Section  
7 21000)).

8 SEC. 12.— Section 2774 of the Public Resources Code is  
9 amended to read:

10 2774. (a) Every lead agency shall adopt ordinances in  
11 accordance with state policy that establish procedures for the  
12 review and approval of reclamation plans and financial assurances  
13 and the issuance of a permit to conduct surface mining operations,  
14 except that any lead agency without an active surface mining  
15 operation in its jurisdiction may defer adopting an implementing  
16 ordinance until the filing of a permit application. The ordinances  
17 shall establish procedures requiring at least one public hearing and  
18 shall be periodically reviewed by the lead agency and revised, as  
19 necessary, to ensure that the ordinances continue to be in  
20 accordance with state policy.

21 (b) (1) (A) The lead agency shall conduct an inspection of a  
22 surface mining operation within six months of receipt by the lead  
23 agency of the surface mining operation's report submitted pursuant  
24 to Section 2207, solely to determine whether the surface mining  
25 operation is in compliance with this chapter.

26 (B) A lead agency shall not inspect a surface mining operation  
27 less than once in any calendar year. The lead agency shall cause  
28 an inspection to be conducted by an individual who is qualified  
29 pursuant to paragraph (2) and who satisfies the provisions of  
30 subdivision (e), including, but not limited to, a state-licensed  
31 geologist, state-licensed civil engineer, state-licensed landscape  
32 architect, state-licensed forester, or lead agency employee who  
33 has not been employed by the surface mining operation within the  
34 jurisdiction of the lead agency in any capacity during the previous  
35 12 months.

36 (C) Notwithstanding subparagraph (B), a lead agency employee  
37 who is qualified pursuant to paragraph (2) and who satisfies the  
38 provisions of subdivision (e) may inspect a surface mining  
39 operation owned or operated by the lead agency.



1 ~~(D) All inspections shall be conducted using a form developed~~  
2 ~~by the department and approved by the board that includes the~~  
3 ~~relevant professional licensing and disciplinary information of the~~  
4 ~~person qualified pursuant to paragraph (2) who conducted the~~  
5 ~~inspection. The operator shall be solely responsible for the~~  
6 ~~reasonable cost of the inspection.~~

7 ~~(E) The lead agency shall notify the director within 60 days of~~  
8 ~~the date of completion of the inspection that the inspection has~~  
9 ~~been conducted. The inspection notice shall contain a statement~~  
10 ~~regarding the surface mining operation's compliance with this~~  
11 ~~chapter, shall include a copy of the completed inspection form,~~  
12 ~~and shall specify which aspects of the surface mining operations,~~  
13 ~~if any, are inconsistent with this chapter and those noncompliant~~  
14 ~~aspects that have been corrected following the inspection, with~~  
15 ~~proof of correction. For each remaining noncompliant aspect, the~~  
16 ~~lead agency shall provide to the director a copy of the notice of~~  
17 ~~violation, the notice of violation combined with an order to comply~~  
18 ~~pursuant to Section 2774.1, or a statement that indicates the lead~~  
19 ~~agency does not intend to initiate an enforcement action pursuant~~  
20 ~~to Section 2774.1. If the surface mining operation has a review of~~  
21 ~~its reclamation plan, financial assurances, or an interim~~  
22 ~~management plan pending under subdivision (b) or (h) of Section~~  
23 ~~2770, or an appeal pending before the board or lead agency~~  
24 ~~governing body under subdivision (c) or (h) of Section 2770, the~~  
25 ~~inspection notice shall so indicate. The lead agency shall forward~~  
26 ~~to the operator a copy of the inspection notice, a copy of the~~  
27 ~~completed inspection form, and any supporting documentation,~~  
28 ~~including, but not limited to, any inspection report prepared by the~~  
29 ~~individual qualified pursuant to paragraph (2).~~

30 ~~(2) (A) The department and the board, in consultation with the~~  
31 ~~Board for Professional Engineers, Land Surveyors, and Geologists,~~  
32 ~~shall adopt regulations that set forth the minimum qualification~~  
33 ~~for a person conducting an inspection of a surface mining operation~~  
34 ~~pursuant to this chapter. The regulations shall delineate those~~  
35 ~~aspects of an inspection that require the inspector to meet state~~  
36 ~~licensure requirements.~~

37 ~~(B) Beginning January 1 of the year following adoption of the~~  
38 ~~regulations required pursuant to subparagraph (A), but not less~~  
39 ~~than 180 days after adoption, all surface mine inspections shall be~~  
40 ~~performed by a qualified individual.~~

1     ~~(e) (1) On or before July 1, 2016, the department shall establish~~  
 2 ~~a training program for all surface mine inspectors. The program~~  
 3 ~~shall be designed to include a guidance document, developed by~~  
 4 ~~the department and approved by the board, to provide instruction~~  
 5 ~~and recommendations to surface mine inspectors performing~~  
 6 ~~inspections pursuant to subdivision (b).~~

7     ~~(2) The training program shall include no less than four~~  
 8 ~~inspection workshops per year, offered by the department, in~~  
 9 ~~different regions of the state, to provide practical application of~~  
 10 ~~the guidance document material.~~

11     ~~(3) On and after January 1, 2019, all inspectors shall have on~~  
 12 ~~file with the lead agency and the department a certificate of~~  
 13 ~~completion of an inspection workshop. An inspector shall attend~~  
 14 ~~a workshop no later than five years after the date of his or her most~~  
 15 ~~recent certificate.~~

16     ~~(d) In addition to subdivision (b), lead agencies or the Supervisor~~  
 17 ~~of Mines and Reclamation may inspect at any time a surface mining~~  
 18 ~~operation to determine if the operation is in compliance with this~~  
 19 ~~chapter and Section 2207.~~

20     ~~(e) The approval of the guidance document by the board~~  
 21 ~~pursuant to subdivision (c) is not the adoption of a regulation for~~  
 22 ~~the purposes of the Administrative Procedure Act (Chapter 3.5~~  
 23 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~  
 24 ~~2 of the Government Code) and is not subject to that chapter.~~

25     ~~SEC. 13. Section 2774.1 of the Public Resources Code is~~  
 26 ~~amended to read:~~

27     ~~2774.1. (a) Except as provided in subdivision (i) of Section~~  
 28 ~~2770, if the lead agency or the director determines, based upon an~~  
 29 ~~annual inspection pursuant to Section 2774, or otherwise confirme-~~  
 30 ~~by an inspection of the mining operation, that a surface mining~~  
 31 ~~operation is not in compliance with this chapter, the lead agency~~  
 32 ~~or the director may notify the operator of that violation by personal~~  
 33 ~~service or certified mail. If the lead agency or the director~~  
 34 ~~determines that the noted violations cannot be corrected within 30~~  
 35 ~~days of the notice, the lead agency shall or the director may~~  
 36 ~~combine the notice of violation with an order to comply. If the~~  
 37 ~~violation extends beyond 30 days after the date of the lead agency's~~  
 38 ~~or the director's notification, the lead agency or the director may~~  
 39 ~~issue an order by personal service or certified mail requiring the~~  
 40 ~~operator to comply with this chapter or, if the operator does not~~

1 have an approved reclamation plan or financial assurances, cease  
2 all further mining activities.

3 ~~(b) An order to comply issued under subdivision (a) shall take~~  
4 ~~effect 30 days following service unless the operator within that~~  
5 ~~30-day period requests a hearing before the lead agency for orders~~  
6 ~~issued by the lead agency, or the board for orders issued by the~~  
7 ~~director, concerning the alleged violation. An order to comply~~  
8 ~~shall specify which aspects of the surface mine's activities or~~  
9 ~~operations are inconsistent with this chapter, shall specify a time~~  
10 ~~for compliance that the lead agency or director determines is~~  
11 ~~reasonable, not to exceed two years, taking into account the~~  
12 ~~seriousness of the violation and any good faith efforts to comply~~  
13 ~~with applicable requirements, and may include an administrative~~  
14 ~~penalty imposed pursuant to subdivision (c). If a lead agency or~~  
15 ~~the director determines compliance with an order to comply will~~  
16 ~~exceed two years, the board may specify a longer period based on~~  
17 ~~an application and showing of good cause.~~

18 ~~(c) (1) In an order to comply pursuant to subdivision (b), the~~  
19 ~~lead agency or the director may impose an administrative penalty~~  
20 ~~of not more than five thousand dollars (\$5,000) per day, assessed~~  
21 ~~from the original date of noncompliance with this chapter. The~~  
22 ~~penalty may be imposed administratively by the lead agency or~~  
23 ~~the director. In determining the amount of the administrative~~  
24 ~~penalty, the lead agency or the director shall take into consideration~~  
25 ~~the nature, circumstances, extent, and gravity of the violation or~~  
26 ~~violations, any prior history of violations, the degree of culpability,~~  
27 ~~economic savings, if any, resulting from the violation, and any~~  
28 ~~other matters justice may require.~~

29 ~~(2) If an operator fails to comply with an order to comply that~~  
30 ~~did not originally impose an administrative penalty, or if an~~  
31 ~~operator fails to submit a report or pay annual fees to the director~~  
32 ~~or lead agency pursuant to Section 2207, the lead agency or director~~  
33 ~~may impose an administrative penalty pursuant to this paragraph.~~  
34 ~~The administrative penalty shall become effective upon issuance~~  
35 ~~of the assessment and payment shall be made to the lead agency~~  
36 ~~or the director within 30 days, unless the operator petitions the~~  
37 ~~legislative body of the lead agency, the board, or the superior court~~  
38 ~~for review as provided in Section 2774.2. An assessment shall be~~  
39 ~~served by personal service or by certified mail upon the operator.~~

1 ~~(3) Penalties collected by the director shall not be used for~~  
2 ~~purposes other than to cover the reasonable costs incurred by the~~  
3 ~~director in implementing this chapter or Section 2207.~~

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

10 ~~(e) Upon a complaint by the director, the department, or the~~  
11 ~~board, the Attorney General may bring an action to recover~~  
12 ~~administrative penalties under this section, and penalties under~~  
13 ~~Section 2207, in any court of competent jurisdiction in this state~~  
14 ~~against any person violating any provision of this chapter or Section~~  
15 ~~2207, or any regulation adopted pursuant to this chapter or Section~~  
16 ~~2207. The Attorney General may bring this action on his or her~~  
17 ~~own initiative if, after examining the complaint and the evidence,~~  
18 ~~he or she believes a violation has occurred. The Attorney General~~  
19 ~~may also seek an order from a court of competent jurisdiction~~  
20 ~~compelling the operator to comply with this chapter and Section~~  
21 ~~2207.~~

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

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

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

36 ~~(2) The director shall comply with this section in initiating~~  
37 ~~enforcement actions.~~

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

1 SEC. 14. ~~Section 2774.4 of the Public Resources Code is~~  
2 ~~amended to read:~~

3 ~~2774.4. (a) The board shall exercise some or all of a lead~~  
4 ~~agency's powers under this chapter pursuant to subdivision (c),~~  
5 ~~except for permitting authority and vested rights determinations~~  
6 ~~pursuant to Section 2776, if the board finds that a lead agency has~~  
7 ~~done any of the following:~~

8 ~~(1) Approved reclamation plans or financial assurances that are~~  
9 ~~not consistent with this chapter.~~

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

12 ~~(3) Failed to seize the financial assurances and to carry out the~~  
13 ~~reclamation of surface mining operations as required by this~~  
14 ~~chapter.~~

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

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

19 ~~(6) Failed to submit information to the department as required~~  
20 ~~by this chapter.~~

21 ~~(b) The board shall conduct a public hearing no sooner than~~  
22 ~~three years after the board has taken action pursuant to subdivision~~  
23 ~~(a) to determine if a lead agency has corrected its deficiencies in~~  
24 ~~implementing and enforcing this chapter and the rules and~~  
25 ~~regulations adopted pursuant to this chapter or has developed a~~  
26 ~~program that will adequately administer this chapter and Section~~  
27 ~~2207. If the board finds sufficient evidence of correction or the~~  
28 ~~development of a program to adequately implement this chapter~~  
29 ~~and Section 2207, the board shall restore to the lead agency some~~  
30 ~~or all of the powers assumed by the board pursuant to subdivision~~  
31 ~~(a).~~

32 ~~(c) Before taking any action pursuant to subdivision (a), the~~  
33 ~~board shall first conduct a hearing, providing 30 days' notice to~~  
34 ~~the lead agency, and shall determine if the lead agency has engaged~~  
35 ~~in conduct described in subdivision (a). If the board finds that the~~  
36 ~~lead agency has engaged in conduct described in subdivision (a),~~  
37 ~~the board shall do either of the following:~~

38 ~~(1) (A) Require the lead agency to develop a remedial plan to~~  
39 ~~correct the noted deficiencies. The remedial plan shall describe~~  
40 ~~specific objectives and corresponding processes designed to~~

1 address, at a minimum, the noted deficiencies and a time that the  
2 remedial plan will be fully implemented.

3 (B) The board shall set a hearing to review the completion of  
4 the remedial plan consistent with paragraph (2) and subdivisions  
5 (d) and (e).

6 (2) Take immediate action pursuant to subdivision (a) and hold  
7 a public hearing within the lead agency's area of jurisdiction, upon  
8 a 45-day written notice given to the public in at least one newspaper  
9 of general circulation within the city or county and directly mailed  
10 to the lead agency and to all operators within the lead agency's  
11 jurisdiction who have submitted reports as required by Section  
12 2207.

13 (d) Affected operators and interested persons have the right at  
14 the public hearing to present oral and written evidence on the  
15 matter being considered. The board, at the public hearing, may  
16 place reasonable limits on the right of affected operators and  
17 interested persons to question and solicit testimony.

18 (e) (1) If the board decides to take action pursuant to subdivision  
19 (a) and exercise some or all of a lead agency's powers pursuant to  
20 this chapter, except for permitting authority and vested rights  
21 determinations pursuant to Section 2776, the board shall, based  
22 on the record of the public hearing, adopt written findings that  
23 explain all of the following:

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

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

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

28 (2) In addition, the findings shall address the significant issues  
29 raised or written evidence presented by affected operators,  
30 interested persons, the lead agency, or the department and finding  
31 from any review of the lead agency's administrative and  
32 enforcement program. The transcript of testimony and exhibits,  
33 together with all papers and requests filed in the proceedings, shall  
34 constitute the exclusive record for decision by the board.

35 (f) If the board finds that the lead agency has not satisfactorily  
36 completed the remedial plan prepared pursuant to paragraph (1)  
37 of subdivision (c), the board shall follow the procedures set forth  
38 in paragraph (2) of subdivision (c) and subdivisions (d) and (e).

39 (g) The lead agency, any affected operator, or any interested  
40 person who has presented oral or written evidence at the public

1 hearing before the board pursuant to subdivision (d) may obtain a  
 2 review of the board's action taken pursuant to subdivision (a) by  
 3 filing in the superior court a petition for a writ of mandate withi-  
 4 30 days following the issuance of the board's decision. Section  
 5 1094.5 of the Code of Civil Procedure governs judicial proceedings  
 6 pursuant to this subdivision, except that in every case the court  
 7 shall exercise its independent judgment. If a petition for a writ of  
 8 mandate is not filed within the time limits set by this subdivision,  
 9 the board's action under subdivision (a) shall not be subject to  
 10 review by any court or agency.

11 SEC. 15. ~~Section 2776 of the Public Resources Code is~~  
 12 ~~amended to read:~~

13 ~~2776. (a) (1) A person who has obtained a vested right to~~  
 14 ~~conduct surface mining operations prior to January 1, 1976, shall~~  
 15 ~~not be required to secure a permit pursuant to this chapter as long~~  
 16 ~~as the vested right continues and as long as no substantial changes~~  
 17 ~~are made in the operation except in accordance with this chapter.~~  
 18 ~~A person shall be deemed to have vested rights if, prior to January~~  
 19 ~~1, 1976, the person has, in good faith and in reliance upon a permit~~  
 20 ~~or other authorization, if the permit or other authorization was~~  
 21 ~~required, diligently commenced surface mining operations and~~  
 22 ~~incurred substantial liabilities for work and materials necessary~~  
 23 ~~for the surface mining operations. Expenses incurred in obtaining~~  
 24 ~~the enactment of an ordinance in relation to a particular operation~~  
 25 ~~or the issuance of a permit shall not be deemed liabilities for work~~  
 26 ~~or materials.~~

27 ~~(2) A lead agency shall maintain records associated with a vested~~  
 28 ~~right determination.~~

29 ~~(b) The reclamation plan required to be filed pursuant to~~  
 30 ~~subdivision (b) of Section 2770 shall apply to operations conducted~~  
 31 ~~after January 1, 1976, or to be conducted.~~

32 ~~(c) Nothing in this chapter shall be construed as requiring the~~  
 33 ~~filing of a reclamation plan for or the reclamation of mined lands~~  
 34 ~~on which surface mining operations were conducted prior to~~  
 35 ~~January 1, 1976.~~

36 *SEC. 5. Section 2770 of the Public Resources Code is amended*  
 37 *to read:*

38 2770. (a) Except as provided in this section, a person shall not  
 39 conduct surface mining operations unless a permit is obtained  
 40 from, a reclamation plan has been submitted to and approved by,

1 and financial assurances for reclamation have been approved by;  
2 by the lead agency for the operation pursuant to this article.

3 (b) A person with an existing surface mining operation who has  
4 vested rights pursuant to Section 2776 and who does not have an  
5 approved reclamation plan shall submit a reclamation plan to the  
6 lead agency not later than March 31, 1988. If a reclamation plan  
7 application is not on file by March 31, 1988, the continuation of  
8 the surface mining operation is prohibited until a reclamation plan  
9 is submitted to the lead agency. ~~For purposes of this subdivision,~~  
10 ~~a reclamation plan may consist of all or the appropriate sections~~  
11 ~~of any plans or written agreements previously approved by the~~  
12 ~~lead agency or another agency, together with any additional~~  
13 ~~documents needed to substantially meet the requirements of~~  
14 ~~Sections 2772 and 2773 and the lead agency surface mining~~  
15 ~~ordinance adopted pursuant to subdivision (a) of Section 2774,~~  
16 ~~provided that all documents which together were proposed to serve~~  
17 ~~as the reclamation plan are submitted for approval to the lead~~  
18 ~~agency in accordance with this chapter.~~

19 (e) ~~If a person with an existing surface mining operation has~~  
20 ~~received lead agency approval of its financial assurances for~~  
21 ~~reclamation prior to January 1, 1991, the lead agency shall~~  
22 ~~administratively review those existing financial assurances in~~  
23 ~~accordance with subdivision (d) prior to January 1, 1992. The~~  
24 ~~review of existing financial assurances shall not be considered a~~  
25 ~~project for purposes of Division 13 (commencing with Section~~  
26 ~~21000). A person with an existing surface mining operation that~~  
27 ~~does not have financial assurances that received lead agency~~  
28 ~~approval prior to January 1, 1991, shall submit financial assurances~~  
29 ~~for reclamation for review in accordance with subdivision (d).~~

30 (d) ~~The lead agency's review of a reclamation plan submitted~~  
31 ~~pursuant to subdivision (b) or of financial assurances pursuant to~~  
32 ~~subdivision (e) is limited to whether the plan or the financia-~~  
33 ~~assurances substantially meet the applicable requirements of~~  
34 ~~Sections 2772, 2773, and 2773.1, and the lead agency surface~~  
35 ~~mining ordinance adopted pursuant to subdivision (a) of Section~~  
36 ~~2774, but, in any event, the lead agency shall require that financia-~~  
37 ~~assurances for reclamation be sufficient to perform reclamation~~  
38 ~~of lands remaining disturbed. Reclamation plans or financia-~~  
39 ~~assurances determined to substantially meet these requirements~~  
40 ~~shall be approved by the lead agency for purposes of this chapter.~~



1 Reclamation plans or financial assurances determined not to  
 2 substantially meet these requirements shall be returned to the  
 3 operator within 60 days. The operator has 60 days to revise the  
 4 plan or financial assurances to address identified deficiencies, at  
 5 which time the revised plan or financial assurances shall be  
 6 returned to the lead agency for review and approval. Except as  
 7 specified in subdivision (e) or (i), unless the operator has filed on  
 8 or before July 1, 1990, an appeal pursuant to subdivision (e) with  
 9 regard to nonapproval of the reclamation plan, or has filed on or  
 10 before January 1, 1994, an appeal pursuant to subdivision (e) with  
 11 regard to nonapproval of financial assurances, and that appeal is  
 12 pending before the board, the continuation of the surface mining  
 13 operation is prohibited until a reclamation plan and financial  
 14 assurances for reclamation are approved by the lead agency.

15 (c) [Reserved]

16 (d) [Reserved]

17 (e) (1) A person ~~who~~, *who can substantiate*, based on the  
 18 evidence of the record, ~~can substantiate~~ that a lead agency has  
 19 either (1) failed to act according to due process or has relied on  
 20 considerations not related to the specific applicable requirements  
 21 of Sections 2772, 2772.1, 2773, ~~and~~ 2773.1, 2773.3, and 2773.4  
 22 and the lead agency surface mining ordinance adopted pursuant  
 23 to subdivision (a) of Section ~~2774~~, 2774 in reaching a decision to  
 24 deny approval of a reclamation plan or financial assurances for  
 25 reclamation, *or* (2) failed to act within a reasonable time of receipt  
 26 of a completed application, *or* (3) failed to review and approve  
 27 reclamation plans or financial assurances as required by  
 28 subdivisions (e) and (d), *application* may appeal that action or  
 29 inaction to the board.

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

34 (A) Section 2773.1.

35 (B) Article 11 (commencing with Section 3800) of Title 14 of  
 36 the California Code of Regulations.

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

39 (3) *If the approved financial assurance cost estimate applies to*  
 40 *a reclamation plan approved for a new surface mining operation,*

1 *an expanded surface mining operation, or an interim financial*  
 2 *assurance due to an order to comply, stipulated or otherwise, the*  
 3 *operator shall provide a financial assurance mechanism pursuant*  
 4 *to subdivision (e) of Section 2773.4 in the amount of the approved*  
 5 *financial assurance cost estimate, notwithstanding an appeal file*  
 6 *pursuant to this subdivision and subject to modification pending*  
 7 *the outcome of the appeal.*

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

13 *(f) (1) The board may decline to hear an appeal if it determines*  
 14 *that the appeal raises no substantial issues related to the lead*  
 15 *agency's review pursuant to this section. decision to deny approval*  
 16 *of a reclamation plan or financial assurance or the timeliness in*  
 17 *reviewing a completed application. An appeal filed by the director*  
 18 *shall be heard by the board.*

19 ~~*(g) Appeals that the board does not decline to hear shall be*~~  
 20 ~~*scheduled and heard at a public hearing within 45 days of the filing*~~  
 21 ~~*of the appeal, or a longer period as may be mutually agreed upon*~~  
 22 ~~*by the board and the person filing the appeal. In hearing an appeal,*~~  
 23 ~~*the board shall only determine whether the reclamation plan or the*~~  
 24 ~~*financial assurances substantially meet the applicable requirements*~~  
 25 ~~*of Sections 2772, 2773, and 2773.1, and the lead agency surface*~~  
 26 ~~*mining ordinance adopted pursuant to subdivision (a) of Section*~~  
 27 ~~*2774. A reclamation plan or financial assurances determined to*~~  
 28 ~~*meet these requirements shall be approved. A reclamation plan or*~~  
 29 ~~*financial assurances determined not to meet these requirements*~~  
 30 ~~*shall be returned to the person filing the appeal with a notice of*~~  
 31 ~~*deficiencies, who shall be granted, once only, a period of 30 days,*~~  
 32 ~~*or a longer period mutually agreed upon by the operator and the*~~  
 33 ~~*board, to correct the noted deficiencies and submit the revised*~~  
 34 ~~*reclamation plan or the revised financial assurances to the lead*~~  
 35 ~~*agency for review and approval.*~~

36 *(2) If the board takes up an appeal, the appeal shall be*  
 37 *scheduled and heard at a public hearing within 45 days of the*  
 38 *filing of the appeal or a longer period may be mutually agreed*  
 39 *upon by the board, the appellant, and the operator or the board,*  
 40 *the director, and the operator.*

1 (g) (1) (A) When hearing an appeal filed pursuant to  
2 subdivision (e), the board shall determine whether the reclamation  
3 plan or the financial assurance cost estimate substantially meets  
4 the applicable requirements of Sections 2772, 2772.1, 2773,  
5 2773.1, 2773.3, and 2773.4, and Article 1 (commencing with  
6 Section 3500), Article 9 (commencing with Section 3700), and  
7 Article 11 (commencing with Section 3800) of Chapter 8 of  
8 Division 2 of Title 14 of the California Code of Regulations, and  
9 the lead agency's surface mining ordinance adopted pursuant to  
10 subdivision (a) of Section 2774. The board shall approve or uphold  
11 a reclamation plan or financial assurance cost estimate determined  
12 to meet those applicable requirements. In any event, the total  
13 amount of financial assurances required for any one year shall  
14 not exceed the amount necessary to perform reclamation of lands  
15 remaining disturbed.

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

19 (2) (A) A reclamation plan determined not to meet the  
20 applicable requirements of Sections 2772, 2772.1, 2773, 2773.1,  
21 2773.3, and 2773.4 and the lead agency's surface mining ordinance  
22 adopted pursuant to subdivision (a) of Section 2774 shall be  
23 returned to the operator with a notice of deficiencies. The operator  
24 shall be granted, once only, a period of 30 days or a longer period  
25 mutually agreed upon by the operator and the board to do both of  
26 the following:

27 (i) Correct the noted deficiencies

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

30 (B) Within 10 days of the hearing, the board shall provide notice  
31 via certified mail to the lead agency, the operator, and the  
32 department of the board's determination. The notice shall include  
33 instructions to the operator to submit to the lead agency for  
34 approval a revised reclamation plan consistent with the board's  
35 determination.

36 (3) (A) If the board determines the lead agency's approved  
37 financial assurance cost estimate does not meet the requirements  
38 of Sections 2773.1 and 2773.4, and Article 11 (commencing with  
39 Section 3800) of Chapter 8 of Division 2 of Title 14 of the  
40 California Code of Regulations, and the board's financia

1 assurance guidelines adopted pursuant to subdivision (f) of Section  
2 2773.1, the board shall note the deficiencies and, based on the  
3 record, include adequate cost estimates for each noted deficiency .

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

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

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

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

22 (h) (1) Within 90 days of a surface mining operation becoming  
23 idle, as defined in Section 2727.1, the operator shall submit to the  
24 lead agency for review and ~~approval~~, approval an interim  
25 management plan. The review and approval of an interim  
26 management plan shall not be considered a project for purposes  
27 of ~~Division the California Environmental Quality Act (Division~~  
28 13 (commencing with Section 21000) 21000)). The approved  
29 interim management plan shall be considered an amendment to  
30 the surface mining operation's approved reclamation ~~plan~~, plan  
31 for purposes of this chapter. The interim management plan shall  
32 provide measures the operator will implement to maintain the site  
33 in compliance with this chapter, including, but not limited to, all  
34 permit conditions.

35 (2) ~~The~~ Except for an interim management plan for a borrow  
36 pit surface mining operation owned or operated by the lead agency  
37 solely for use by the lead agency, an interim management plan  
38 may remain in effect for a period not to exceed five years, at which  
39 time the lead agency shall do one of the following:

1 (A) Renew the interim management plan for an additional period  
2 not to exceed five years, which may be renewed for one additional  
3 five-year renewal period at the expiration of the first five-year  
4 renewal period, if the lead agency finds that the surface mining  
5 operator has complied fully with the interim management plan.  
6 (B) Require the ~~surface mining~~ operator to commence  
7 reclamation in accordance with its approved reclamation plan.  
8 (3) The financial assurances required by Section 2773.1 shall  
9 remain in effect during the period that the surface mining operation  
10 is idle. If the surface mining operation is still idle after the  
11 expiration of its interim management plan, the ~~surface mining~~  
12 ~~operation~~ operator shall commence reclamation in accordance  
13 with its approved reclamation plan.  
14 (4) Within 60 days of the receipt of the interim management  
15 ~~plan,~~ plan or a longer period mutually agreed upon by the lead  
16 agency and the operator, the lead agency shall review and approve  
17 the plan in accordance with its ordinance adopted pursuant to  
18 subdivision (a) of Section 2774, so long as the plan satisfies the  
19 requirements of this subdivision, and so notify the operator in  
20 writing. Otherwise, the lead agency shall notify the operator in  
21 writing of any deficiencies in the plan. The operator shall have 30  
22 days, or a longer period mutually agreed upon by the operator and  
23 the lead agency, to submit a revised plan.  
24 (5) The lead agency shall approve or deny approval of the  
25 revised interim management plan within 60 days of receipt. If the  
26 lead agency denies approval of the revised interim management  
27 plan, the operator may appeal that action to the lead agency's  
28 governing body, which shall schedule a public hearing within 45  
29 days of the filing of the ~~appeal,~~ appeal or a longer period mutually  
30 agreed upon by the operator and the governing body.  
31 (6) Unless review of an interim management plan is pending  
32 before the lead ~~agency,~~ agency or an appeal is pending before the  
33 lead agency's governing body, a surface mining operation that  
34 remains idle for over one year after becoming ~~idle~~ idle, as define  
35 in Section ~~2727.1~~ 2727.1, without obtaining approval of an interim  
36 management plan shall be considered abandoned and the operator  
37 shall commence and complete reclamation in accordance with the  
38 approved reclamation plan.

1 (7) If a lead agency owns or operates a borrow pit surface  
2 mining operation that is solely for use by the lead agency, then all  
3 of the following apply:

4 (A) The borrow pit surface mining operation is exempt from the  
5 requirements of this subdivision.

6 (B) The lead agency shall maintain financial assurances while  
7 the borrow pit surface mining operation is idle.

8 (C) The lead agency may obtain an interim management plan  
9 for the borrow pit surface mining to comply with subdivision (b)  
10 of Section 2772. That interim management plan shall not expire.

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

18 (j) Notwithstanding paragraph (1) of subdivision (b) of Section  
19 2774, a lead agency may inspect every two years a borrow pit  
20 surface mining operation that is solely for use by the lead agency  
21 while that surface mining operation is idle.

22 SEC. 6. Section 2772 of the Public Resources Code is amended  
23 to read:

24 2772. (a) The reclamation plan shall be filed with the lead  
25 agency, on a form provided by the lead agency, by any person who  
26 owns, leases, or otherwise controls or operates ~~on all,~~ all or any  
27 portion of ~~any, any mined lands,~~ lands and who plans to conduct  
28 surface mining operations on the lands.

29 (b) ~~All documentation for the reclamation plan shall be~~  
30 ~~submitted.~~ In addition to the other requirements for a reclamation  
31 plan set forth in this section, a reclamation plan for a borrow pit  
32 surface mining operation owned or operated by the lead agency  
33 ~~to the department at one time.~~ solely for use by the lead agency  
34 shall include maintenance measures that become effective when  
35 the borrow pit surface mining operation is idle.

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

38 (1) The name and address of the ~~surface mining~~ operator and  
39 the names and addresses of any persons designated by the operator  
40 as an agent for the service of process.

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

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

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

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

9 ~~(5) The size~~

10 (A) *Size and legal description of the lands that will be affected*  
11 *by the surface mining operation, a map that includes the boundaries*  
12 *and topographic details of the lands, a description of the general*  
13 *geology of the area, a detailed description of the geology of the*  
14 *area in which surface mining is to be conducted, the location of*  
15 *all streams, roads, railroads, and utility facilities within, or adjacent*  
16 *to, the lands, the location of all proposed access roads to be*  
17 *constructed in conducting the surface mining operation, operation*  
18 *and the names and addresses of the owners of all surface interests*  
19 *and mineral interests in the lands.*

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

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

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

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

30 (F) *All maps, diagrams, or calculations that require preparation*  
31 *in accordance with the Professional Engineers Act (Chapter 7*  
32 *(commencing with Section 6700) of Division 3 of the Business and*  
33 *Professions Code), the Geologist and Geophysicist Act (Chapter*  
34 *12.5 (commencing with Section 7800) of Division 3 of the Business*  
35 *and Professions Code), or the Professional Land Surveyors' Act*  
36 *(Chapter 15 (commencing with Section 8700) of Division 3 of the*  
37 *Business and Professions Code) shall be prepared by an*  
38 *appropriately licensed California-licensed professional, shall*  
39 *include his or her license number and name, and shall bear the*  
40 *signature and seal of the licensee.*

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

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

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

14 (A) A description of the manner in which *known* contaminants  
15 will be ~~controlled, controlled~~ and mining waste will be disposed.

16 (B) A description of the manner in which affected streambed  
17 channels and streambanks will be rehabilitated to a condition  
18 ~~minimizing that minimizes erosion and sedimentation will occur.~~  
19 *sedimentation.*

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

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

25 (11) Any other information ~~which~~ *that* the lead agency may  
26 require by ordinance.

27 (12) *A chart identifying the page number, chapter, appendix,*  
28 *or other specific location in the reclamation plan where content*  
29 *meeting the requirements, as applicable, of Sections 2772, 2773,*  
30 *and 2773.3 and Article 1 (commencing with Section 3500) and*  
31 *Article 9 (commencing with Section 3700) of Chapter 8 of Division*  
32 *2 of Title 14 of the California Code of Regulations is located.*

33 (d) An item of information or a document required pursuant to  
34 subdivision ~~(e)~~ (c), that has already been prepared as part of a  
35 permit application for the surface mining operation, or as part of  
36 an environmental document prepared for the project pursuant to  
37 ~~Division~~ *the California Environmental Quality Act (Division 13*  
38 *(commencing with Section 21000), 21000))* may be included in  
39 the reclamation plan by reference, if that item of information or  
40 that document is attached to the reclamation plan when the lead



1 agency submits the reclamation plan to the director for review. To  
 2 the extent that the information or document information, document,  
 3 or component of a document referenced in the reclamation plan is  
 4 used to meet the requirements of subdivision (e), the information  
 5 or (c) or Section 2773 or 2773.3, the information, document, or  
 6 component of a document shall become part of the reclamation  
 7 plan and shall be subject to all other requirements of this article.

8 (e) ~~Nothing in this~~ This section is intended to does not limit or  
 9 expand the department's Supervisor of Mines and Reclamation's  
 10 authority or responsibility to review a document in accordance  
 11 with ~~Division~~ the California Environmental Quality Act (Division  
 12 13 (commencing with Section ~~21000~~ 21000)).

13 SEC. 7. Section 2773.1.5 is added to the Public Resources  
 14 Code, to read:

15 2773.1.5. (a) Notwithstanding subdivision (e) of Section  
 16 2773.1, a financial assurance mechanism may include corporate  
 17 financial tests combined with surety bonds, irrevocable letters of  
 18 credit, or trust funds, as described in this section, that together  
 19 ensure the completion of reclamation in accordance with the  
 20 approved reclamation plan.

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

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

29 (B) Income.

30 (C) Liabilities, including other environmental assurances.

31 (D) Assets located within the United States.

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

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

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

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

1 (ii) Be annually approved by both the lead agency and the  
2 director.

3 (iii) Be able to be disallowed by either the lead agency or the  
4 director.

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

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

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

17 SEC. 8. Section 2774 of the Public Resources Code is amended  
18 to read:

19 2774. (a) Every lead agency shall adopt ordinances in  
20 accordance with state policy that establish procedures for the  
21 review and approval of reclamation plans and financial assurances  
22 and the issuance of a permit to conduct surface mining operations,  
23 except that any lead agency without an active surface mining  
24 operation in its jurisdiction may defer adopting an implementing  
25 ordinance until the filing of a permit application. The ordinances  
26 shall establish procedures requiring at least one public hearing and  
27 shall be periodically reviewed by the lead agency and revised, as  
28 necessary, to ensure that the ordinances continue to be in  
29 accordance with state policy.

30 (b) (1) The lead agency shall ~~conduct an inspection of a cause~~  
31 ~~surface mining operation within six months of receipt by the lead~~  
32 ~~agency of the surface mining operation's report submitted pursuant~~  
33 ~~to Section 2207, operations to be inspected in intervals of no more~~  
34 ~~than 12 months, solely to determine whether the surface mining~~  
35 ~~operation is in compliance with this chapter. In no event shall a~~  
36 ~~lead agency inspect a surface mining operation less than once in~~  
37 ~~any calendar year. The lead agency may shall cause an inspection~~  
38 ~~to be conducted by a state-licensed state-licensed geologist, state~~  
39 ~~licensed state-licensed civil engineer, state-licensed state-licensed~~  
40 ~~landscape architect, or state-licensed state-licensed forester, who~~

1 ~~is experienced in land reclamation and~~ *or a qualified lead agency*  
 2 *employee who has not been employed by a the surface mining*  
 3 *operation within the jurisdiction of the lead agency being inspected*  
 4 *in any capacity during the previous 12 months. months, except that*  
 5 *a qualified lead agency employee may inspect surface mining*  
 6 *operations conducted by the local agency. All inspections shall*  
 7 *be conducted using a form developed by the department and*  
 8 *approved by the board that shall include includes the professional*  
 9 *licensing and disciplinary information of the person who conducted*  
 10 *the inspection. The operator shall be solely responsible for the*  
 11 *reasonable cost of the inspection. The lead agency shall notify*  
 12 *provide a notice of completion of inspection to the director within*  
 13 ~~30~~ *90 days of the date of completion of conducting the inspection*  
 14 ~~that the inspection has been conducted.~~ *inspection. The notice shall*  
 15 *contain a statement regarding the surface mining operation's*  
 16 *compliance with this chapter, shall include chapter and a copy of*  
 17 *the completed inspection form, and shall specify which aspects of*  
 18 ~~the surface mining operations, if any, are inconsistent with this~~  
 19 ~~chapter. If specify, as applicable, all of the following:~~

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

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

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

30 *(2) If the surface mining operation has a review of its*  
 31 *reclamation plan, financial assurances, or an interim management*  
 32 *plan pending under subdivision (b), (c), (d), or (h) of Section 2770,*  
 33 *or an appeal pending before the board or lead agency governing*  
 34 *body under subdivision (e) or (h) of Section 2770, the notice shall*  
 35 *so indicate. The lead agency shall forward to the operator a copy*  
 36 *of the notice, a copy of the completed inspection form, and any*  
 37 *supporting documentation, including, but not limited to, any*  
 38 *inspection report prepared by the geologist, civil engineer,*  
 39 ~~landscape architect, or forester,~~ *forester, or qualified lead agency*  
 40 *employee who conducted the inspection.*

1 ~~(e) Before approving a surface mining operation’s reclamation~~  
2 ~~plan, financial assurances, including existing financial assurances~~  
3 ~~reviewed by the lead agency pursuant to subdivision (c) of Section~~  
4 ~~2770, or any amendments, the lead agency shall submit the plan,~~  
5 ~~assurances, or amendments to the director for review. All~~  
6 ~~documentation for that submission shall be submitted to the director~~  
7 ~~at one time. When the lead agency submits a reclamation plan or~~  
8 ~~plan amendments to the director for review, the lead agency shall~~  
9 ~~also submit to the director, for use in reviewing the reclamation~~  
10 ~~plan or plan amendments, information from any related document~~  
11 ~~prepared, adopted, or certified pursuant to Division 13~~  
12 ~~(commencing with Section 21000), and shall submit any other~~  
13 ~~pertinent information. The lead agency shall certify to the director~~  
14 ~~that the reclamation plan is in compliance with the applicable~~  
15 ~~requirements of this chapter and Article 1 (commencing with~~  
16 ~~Section 3500) of Chapter 8 of Division 2 of Title 14 of the~~  
17 ~~California Code of Regulations and the lead agency’s mining~~  
18 ~~ordinance in effect at the time that the reclamation plan is submitted~~  
19 ~~to the director for review.~~

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

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

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

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

22 (e) A lead agency shall notify the director of the filing of an  
23 application for a permit to conduct surface mining operations  
24 within 30 days of an application being filed with the lead agency.  
25 By July 1, 1991, each lead agency shall submit to the director for  
26 every active or idle mining operation within its jurisdiction, a copy  
27 of the mining permit required pursuant to Section 2774, and any  
28 conditions or amendments to those permits. By July 1 of each  
29 subsequent year, the lead agency shall submit to the director for  
30 each active or idle mining operation a copy of any permit or  
31 reclamation plan amendments, as applicable, or a statement that  
32 there have been no changes during the previous year. Failure to  
33 file with the director the information required under this section  
34 shall be cause for action under Section 2774.4.

35 (c) *If an operator does not request an inspection date on the*  
36 *annual report filed pursuant to Section 2207 or if the lead agency*  
37 *is unable to cause the inspection of a given surface mining*  
38 *operation on the date requested by the operator, the lead agency*  
39 *shall provide the operator with a minimum of five days' written*

1 notice of a pending inspection or a lesser time period if agreed to  
2 by the operator.

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

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

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

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

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

15 (e) (1) No later than December 31, 2016, the department shall  
16 establish a training program for all surface mine inspectors. The  
17 program shall be designed to include a guidance document,  
18 developed by the department, in consultation with the board and  
19 stakeholders, to provide instruction and recommendations to  
20 surface mine inspectors performing inspections pursuant to  
21 subdivision (b).

22 (2) The training program shall include inspections workshops  
23 offered by the department in different regions of the state to provide  
24 practical application of the guidance document material.

25 (3) On and after July 1, 2019, all inspectors shall have on fil  
26 with the lead agency and the department a certificate of completion  
27 of an inspection workshop. An inspector shall attend a workshop  
28 no later than five years after the date of his or her most recent  
29 certificat .

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

35 ~~SEC. 16.~~

36 SEC. 9. No reimbursement is required by this act pursuant to  
37 Section 6 of Article XIII B of the California Constitution because  
38 a local agency or school district has the authority to levy service  
39 charges, fees, or assessments sufficient to pay for the program or

1 level of service mandated by this act, within the meaning of Section  
2 17556 of the Government Code.

3 ~~SEC. 17.~~

4 *SEC. 10.* This act shall become operative only if both this bill  
5 and Assembly Bill 1142 of the 2015–16 Regular Session are  
6 enacted and become ~~operative.~~ *operative on or before January 1,*  
7 *2016.*

O





**Proposed Changes to §7841.2 of the Geologist and Geophysicist Act  
(Qualifications for certification as a geologist-in-training)**

As of January 1, 2016, the qualifications for certification as a geologist-in-training (GIT) require the following:

*Business and Professions Code section 7841.2. An applicant for certification as a geologist-in-training shall comply with all of the following:*

- (a) Not have committed acts or crimes constituting grounds for denial of certification under Section 480.*
- (b) Successfully pass the Fundamentals of Geology examination.*
- (c) Graduation from a college or university with a major in geological sciences or any other discipline that, in the opinion of the board, is relevant to geology.*

BPELSG staff have received feedback from college/university professors and students stating that it would be helpful to allow students with senior status to take the Fundamentals of Geology (FG) exam and qualify for a GIT certificate prior to getting their degrees. A GIT certificate would be beneficial to graduating seniors searching for a job. Colleges/universities would benefit from an increase in the number of students taking the FG exam which would generate data that could be used to assess a geoscience curriculum via the use of the ASBOG Curriculum Performance Assessment Tool (<http://asbog.org/academicassessment.html>). Additionally, this change would bring the qualifications for a GIT certificate in line with the qualifications for an EIT or LSIT certificate, both of which do not require an applicant to have a degree.

Board staff are recommending that these qualifications be changed to allow for the issuance of a GIT certificate to an applicant who has achieved Senior status in a geology curriculum, or has completed 30 semester units in geological science courses, of which at least 24 units are in the third or fourth year. This change would allow for issuance of GIT certificates to university students prior to completion of their degrees.

**RECOMMENDED MOTION:** Direct Board staff to proceed with a legislative proposal to amend §7841.2 of the Geologist and Geophysicist Act as described.



#### **IV. Consideration of Rulemaking Proposals**

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- A. Proposal to Amend Title 16, California Code of Regulations §3031 (Geologist Education) (Possible Action)



**Proposed Amendments to Title 16, California Code of Regulations §3031  
(Qualifying geological sciences degree)**

Goal 1.1 of the 2015-2018 BPELSG Strategic Plan states the Board’s intent to “Identify the minimum curriculum required for a qualifying geological sciences degree.”

The minimum qualifications for licensure as a geologist in California are described in Business and Professions Code section 7841. The Board has long recognized that there is confusion among potential licensees regarding the requirement described in *§7841 (b) Graduation with a major in geological sciences from a college or university*. The confusion appears to be due to several factors including:

- the lack of a standardized university curriculum for a geology or geoscience degree;
- the lack of a national accreditation program for a geology or geoscience degree;
- the proliferation of interdisciplinary earth science and environmental degrees in response to current environmental challenges;
- the misperception by some that because geologists often work in the environmental field, environmental science (or related interdisciplinary degrees) and geology are equivalent.

Board staff recommend that Title 16, California Code of Regulations section 3031 be amended to define the minimum curriculum for a qualifying geological sciences degree and to clarify the educational and experience requirements for licensure as a professional geologist.

Prior to initiating the rulemaking process, staff recommend that the Board authorize two workshops, one in Northern California and the other in Southern California, to solicit input from industry, academia, and any other interested stakeholders on the proposal.

After considering all input, the proposed amendments to Section 3031 would be presented at a future Board meeting with a request that the Board approve moving forward with the rulemaking proposal.



## V. Enforcement

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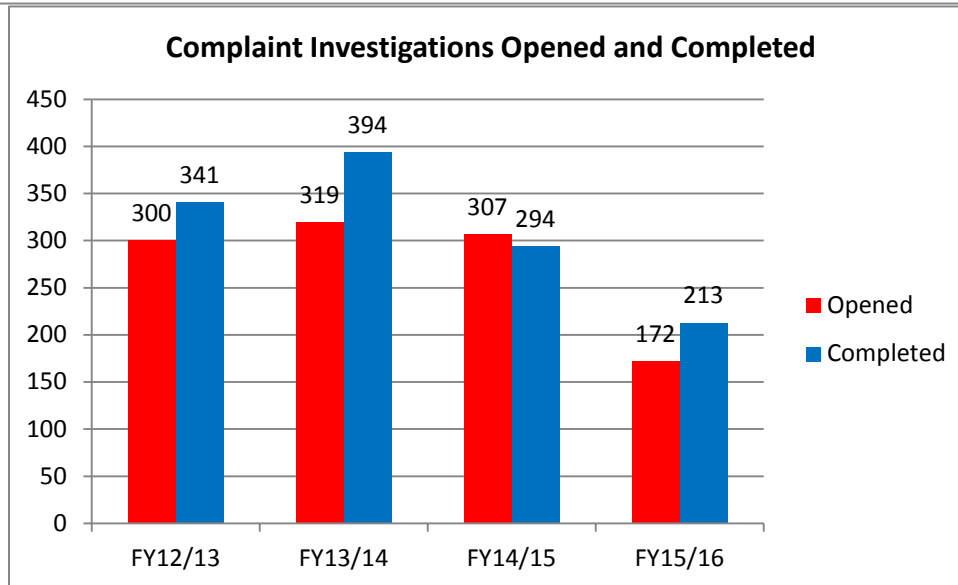
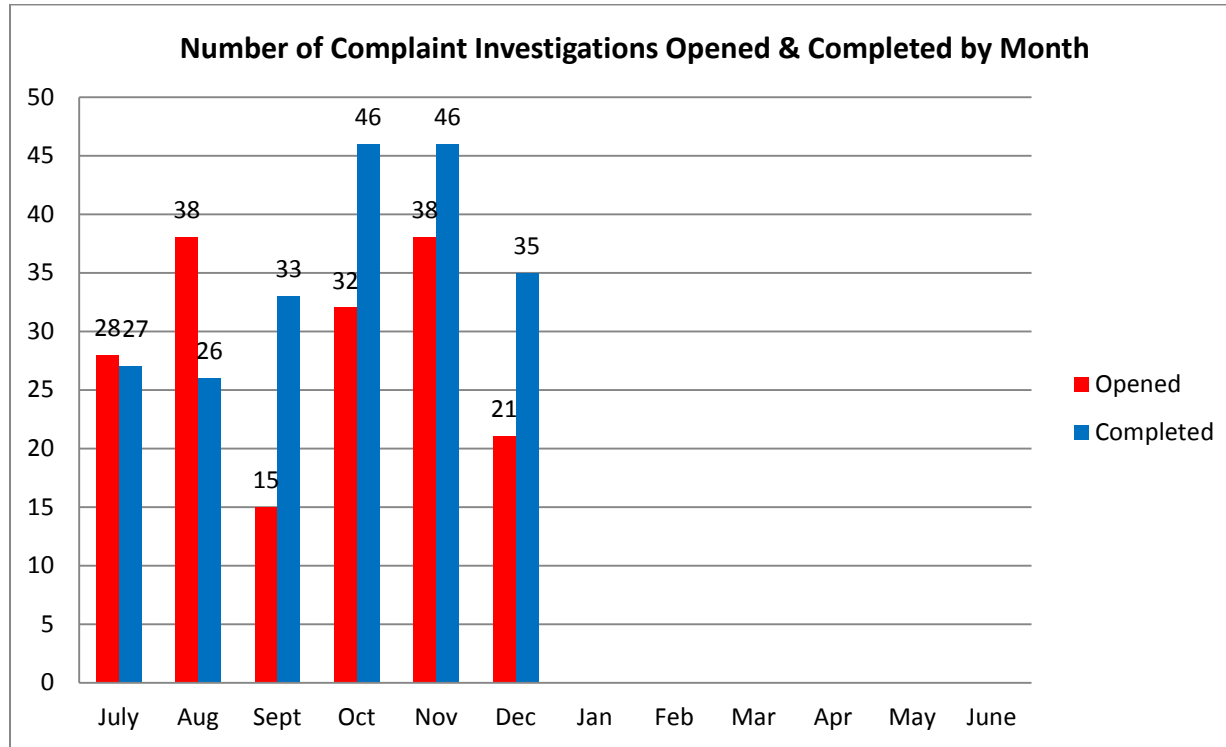
### A. Enforcement Statistical Report





# PELS ENFORCEMENT PROGRAM

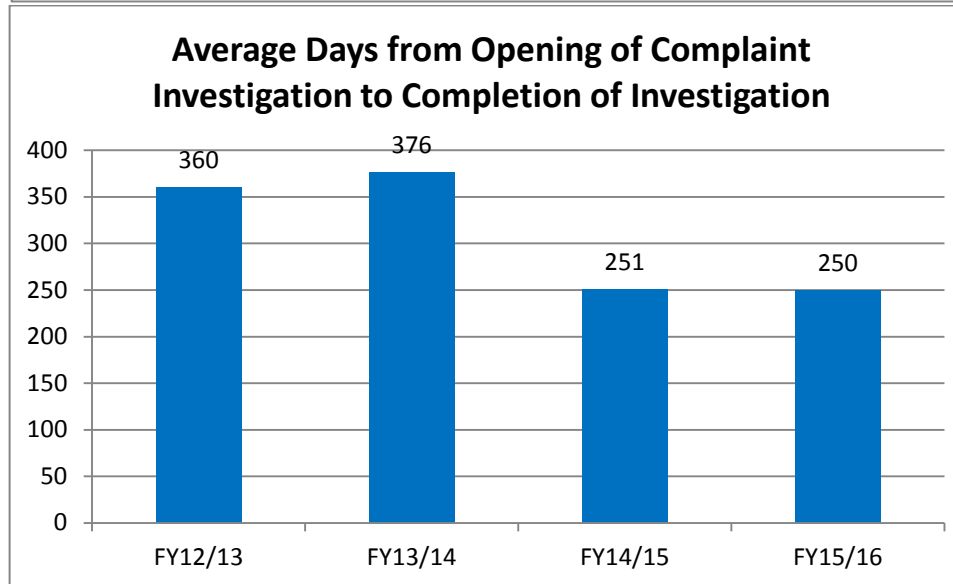
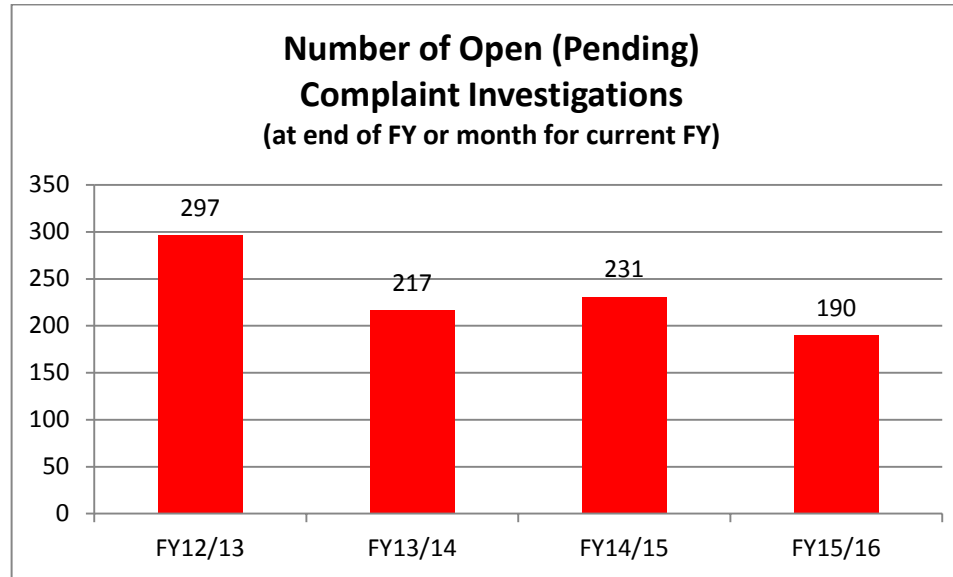
## Complaint Investigation Phase



NOTE: FY15/16 statistics are through December 31, 2015

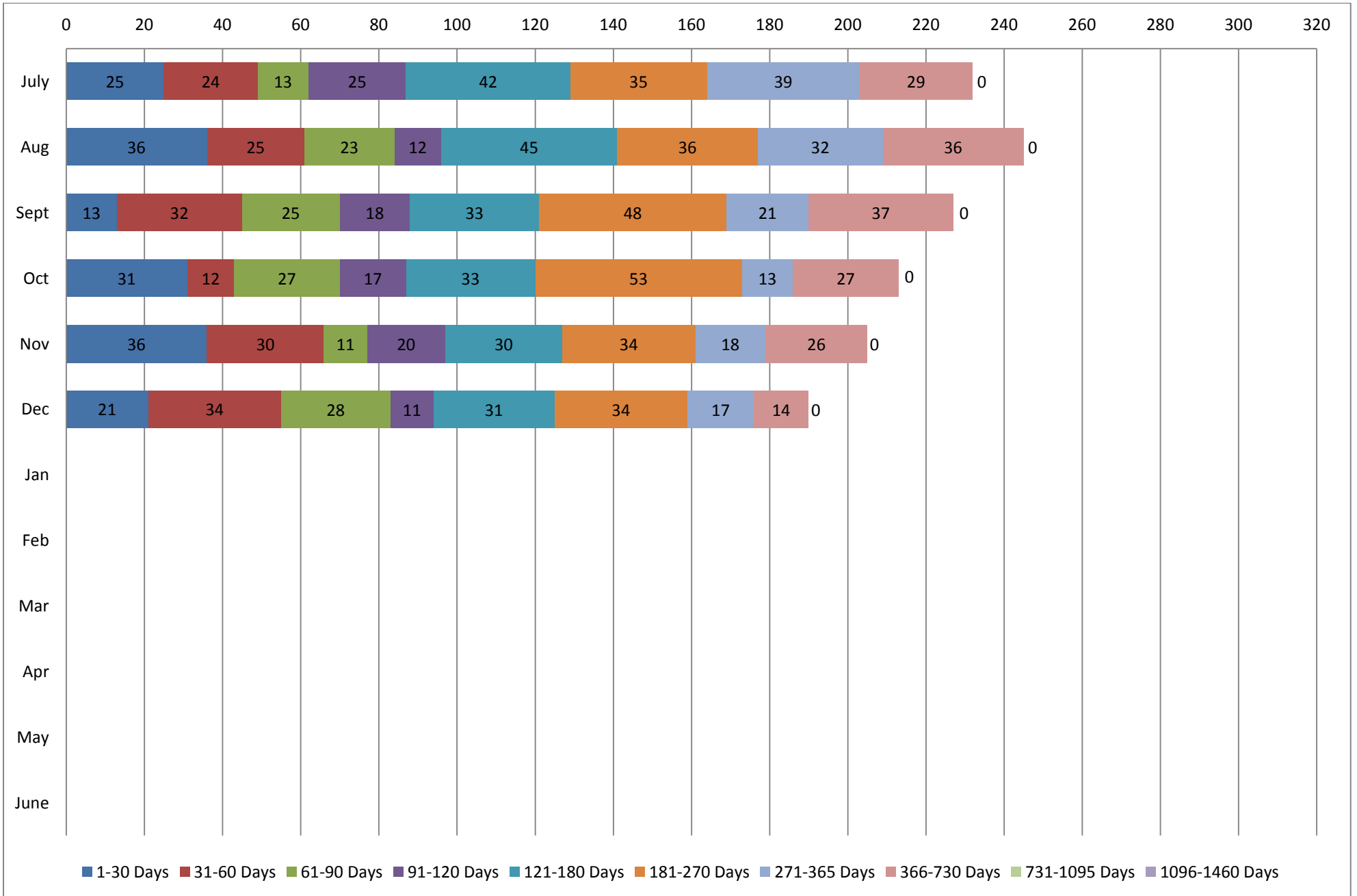
# PELS ENFORCEMENT PROGRAM

## Complaint Investigation Phase



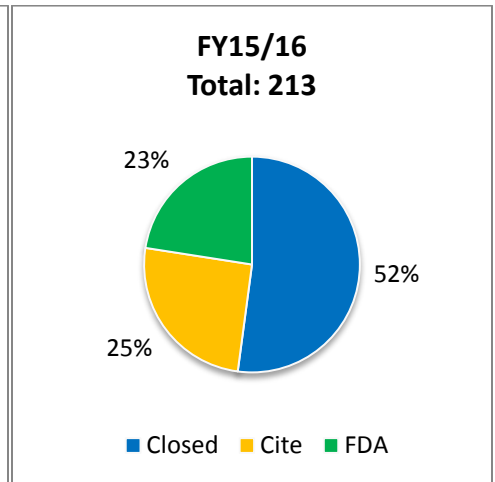
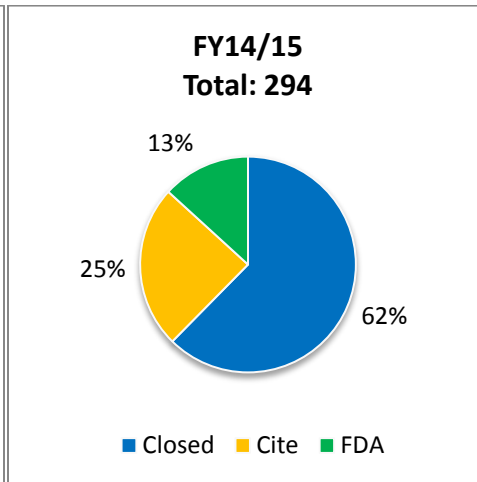
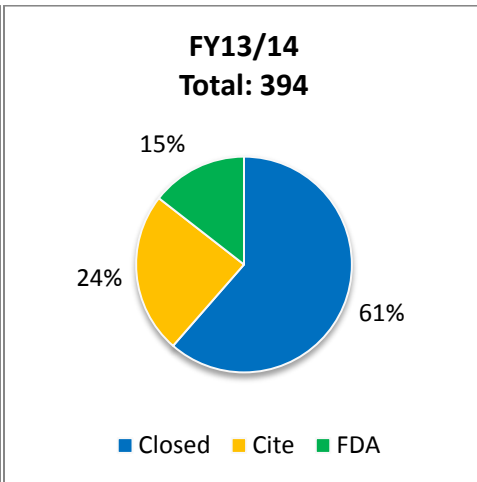
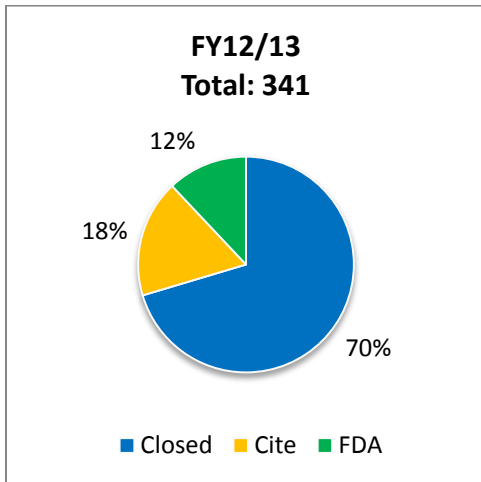
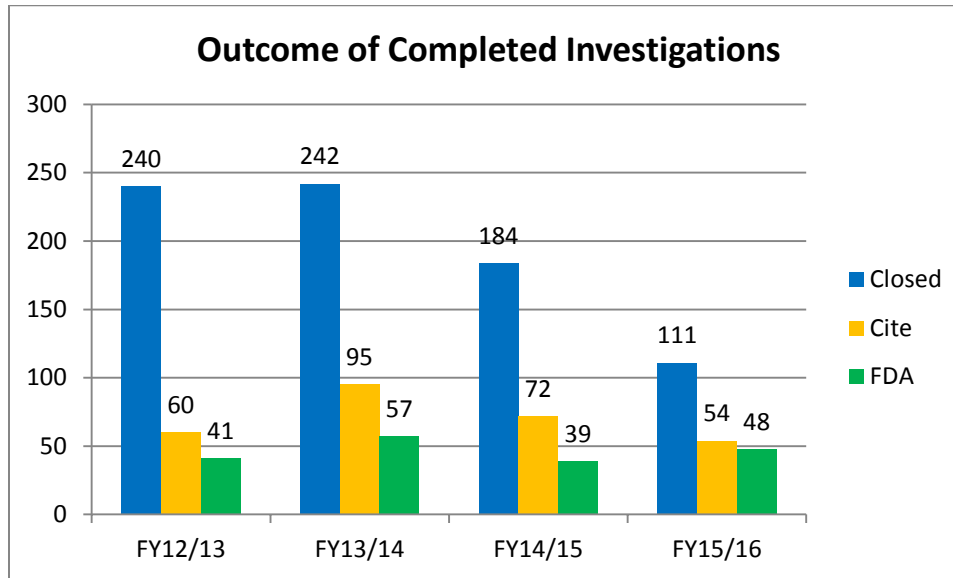
NOTE: FY15/16 statistics are through December 31, 2015

## Aging of Open (Pending) Complaint Investigation Cases FY15/16



# PELS ENFORCEMENT PROGRAM

## Outcome of Completed Investigations



**NOTE: FY15/16 statistics are through December 31, 2015**

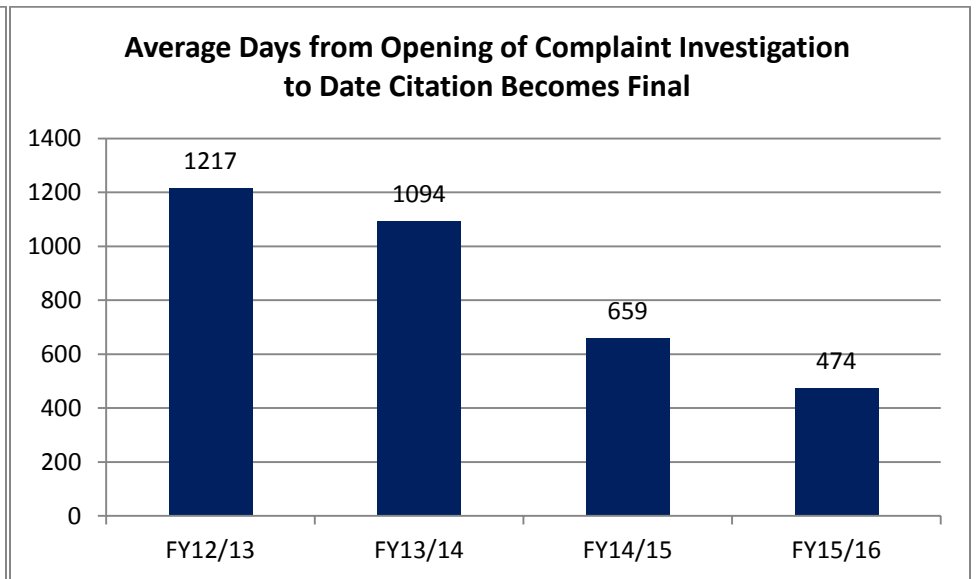
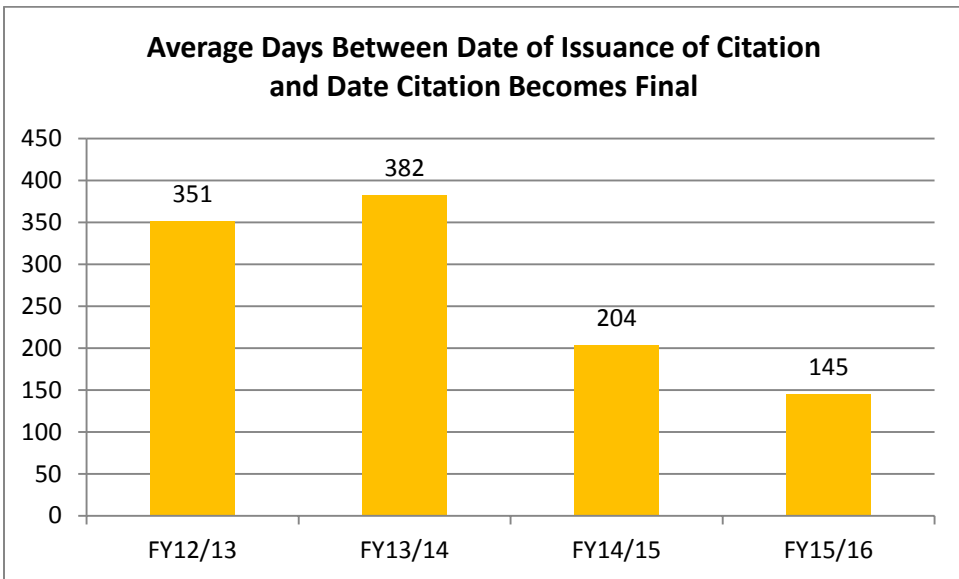
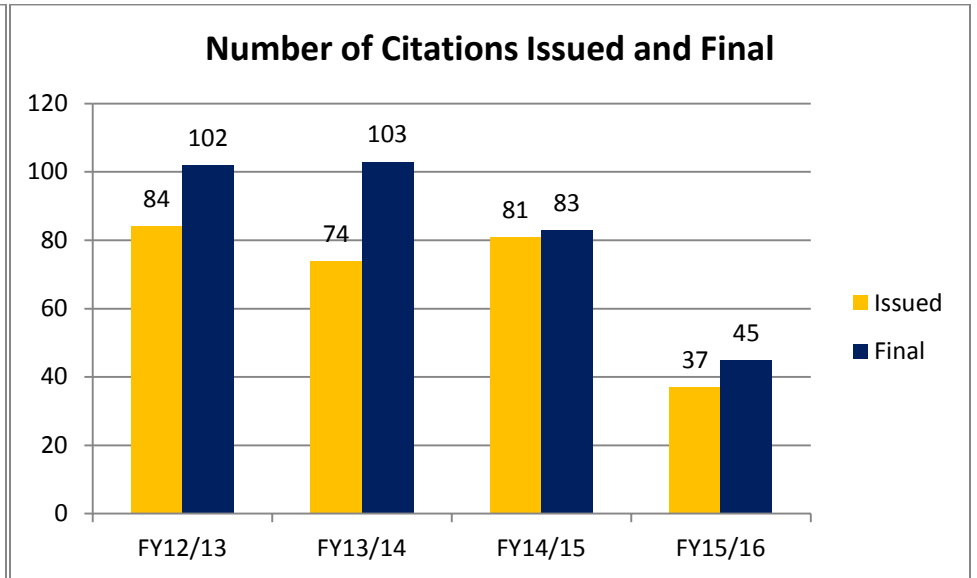
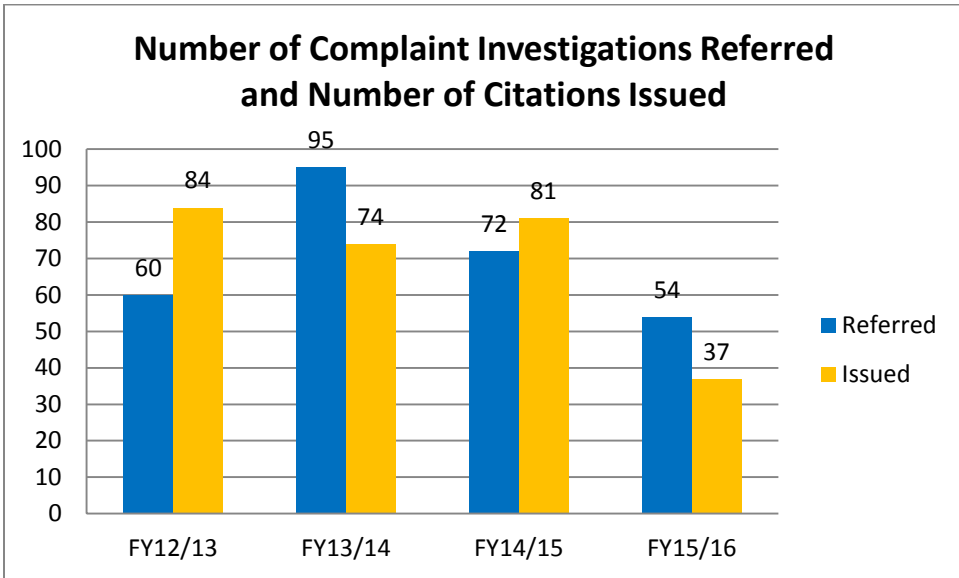
Closed = Closed with No Action Taken, includes the categories listed on the next page.

Cite = Referred for Issuance of Citation

FDA = Referred for Formal Disciplinary Action

# PELS ENFORCEMENT PROGRAM

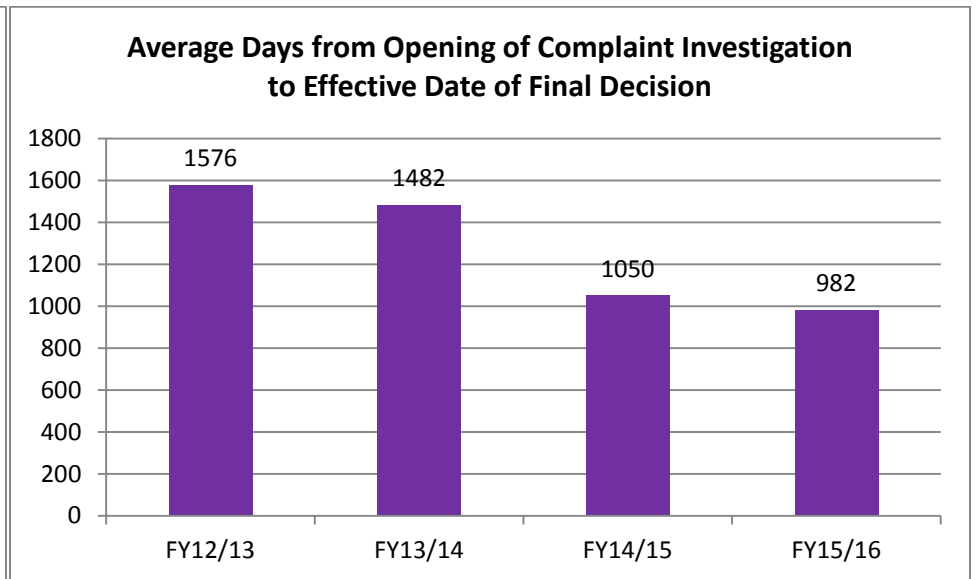
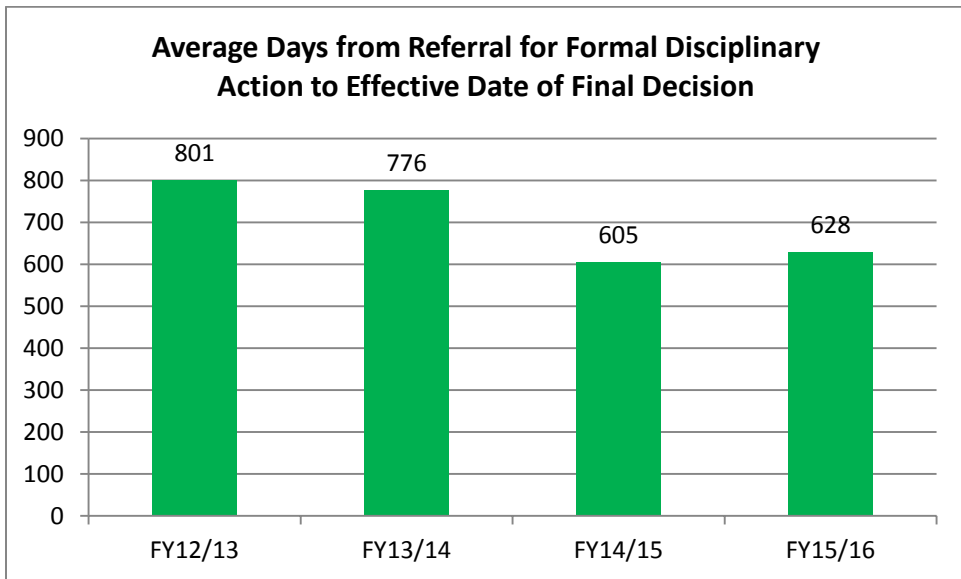
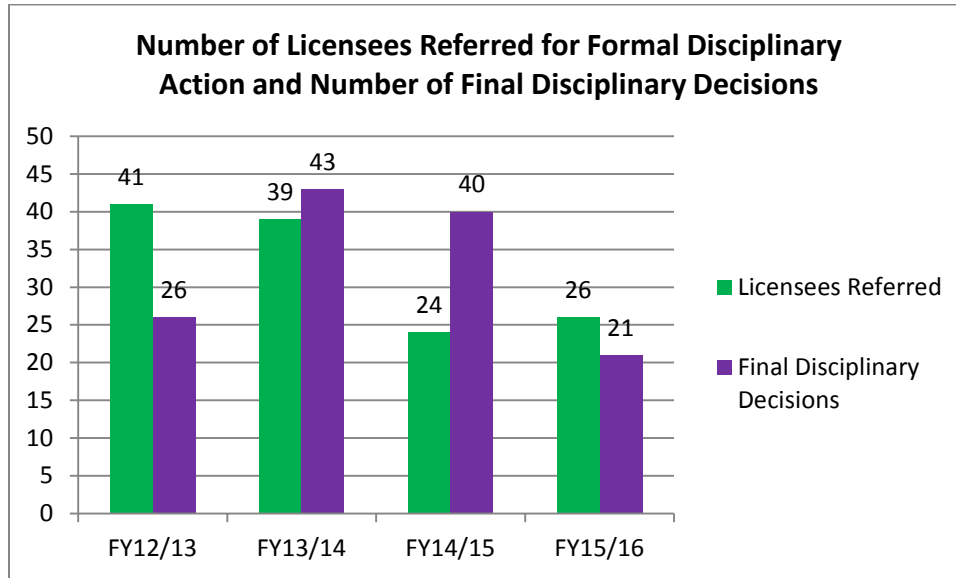
## Citations (Informal Enforcement Actions)



**NOTE: FY15/16 statistics are through December 31, 2015**

# PELS ENFORCEMENT PROGRAM

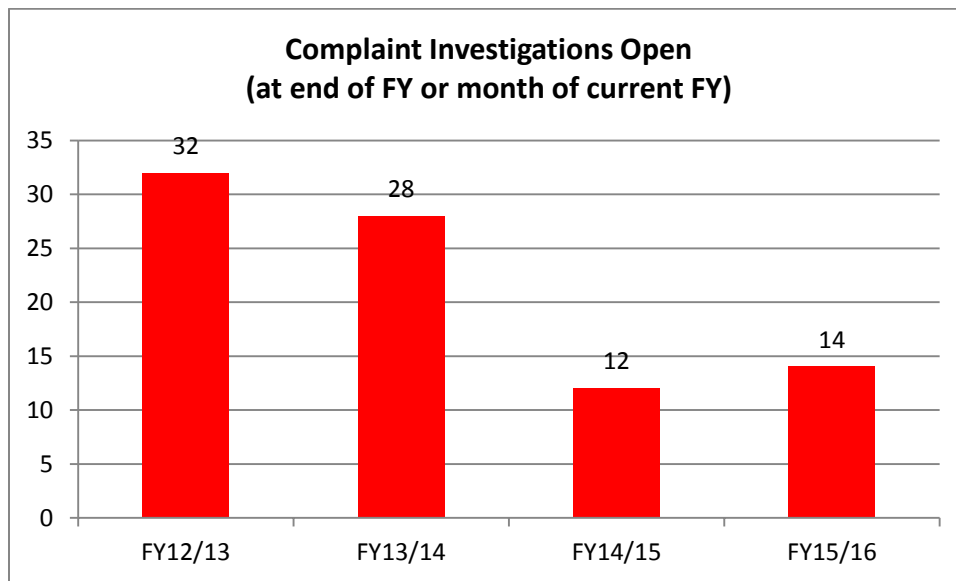
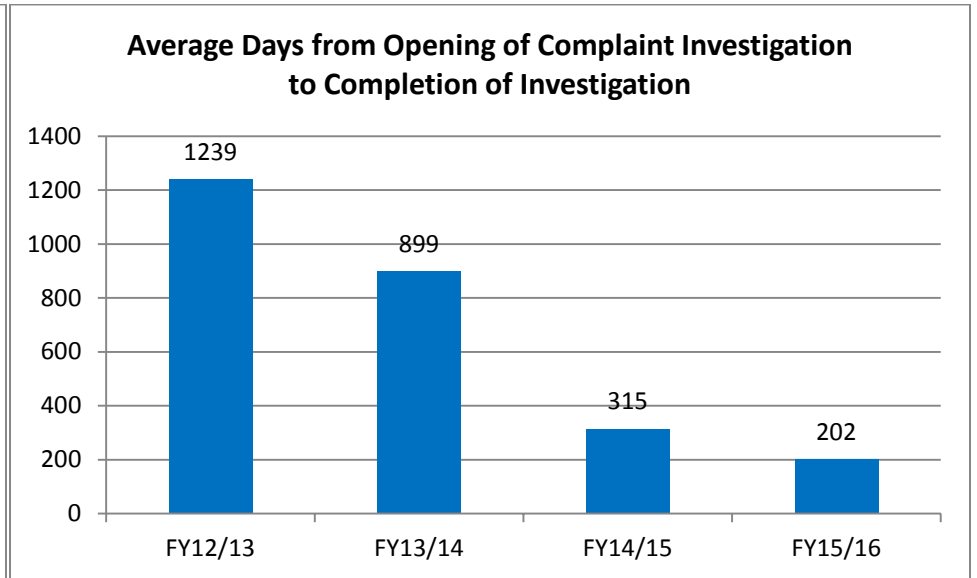
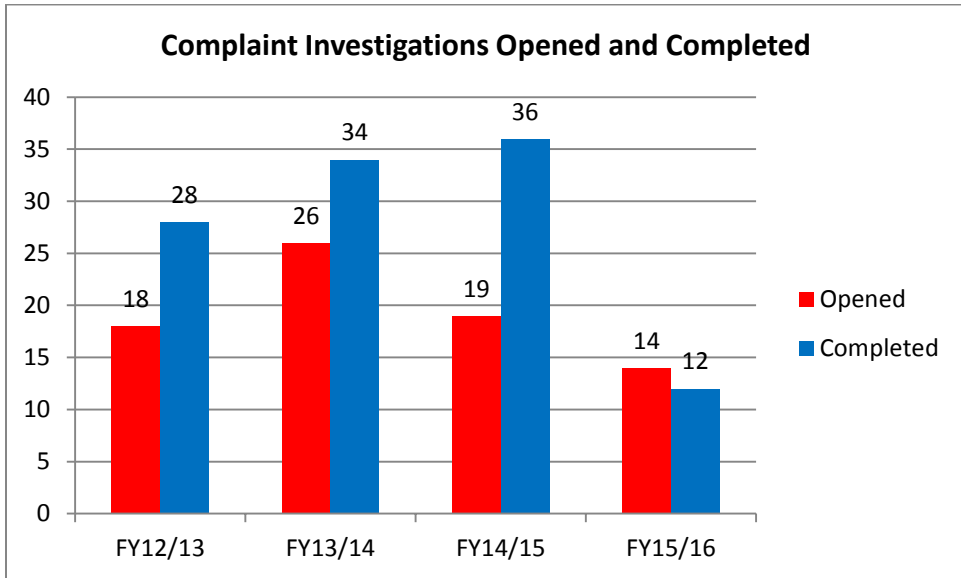
## Formal Disciplinary Actions Against Licensees



**NOTE: FY15/16 statistics are through December 31, 2015**

# G&G ENFORCEMENT PROGRAM

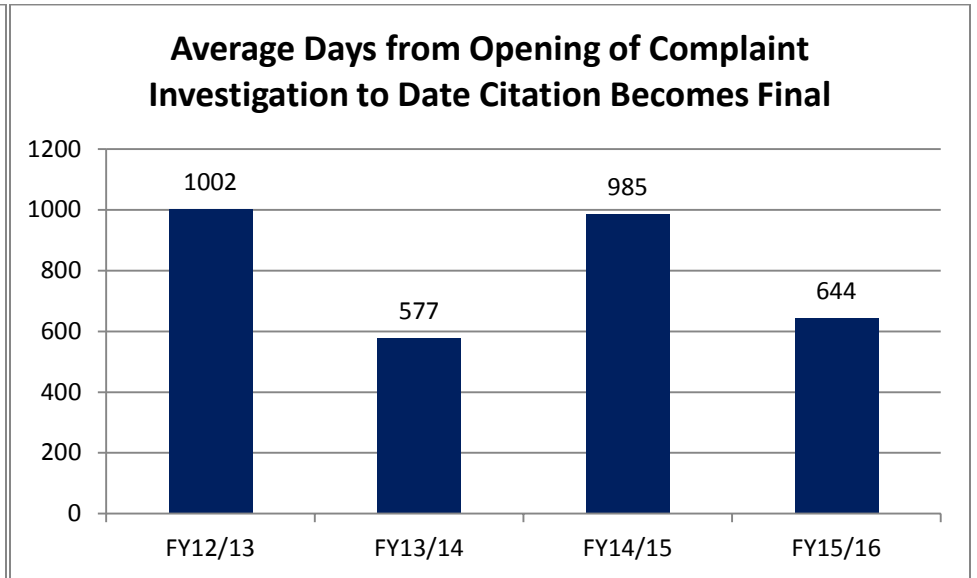
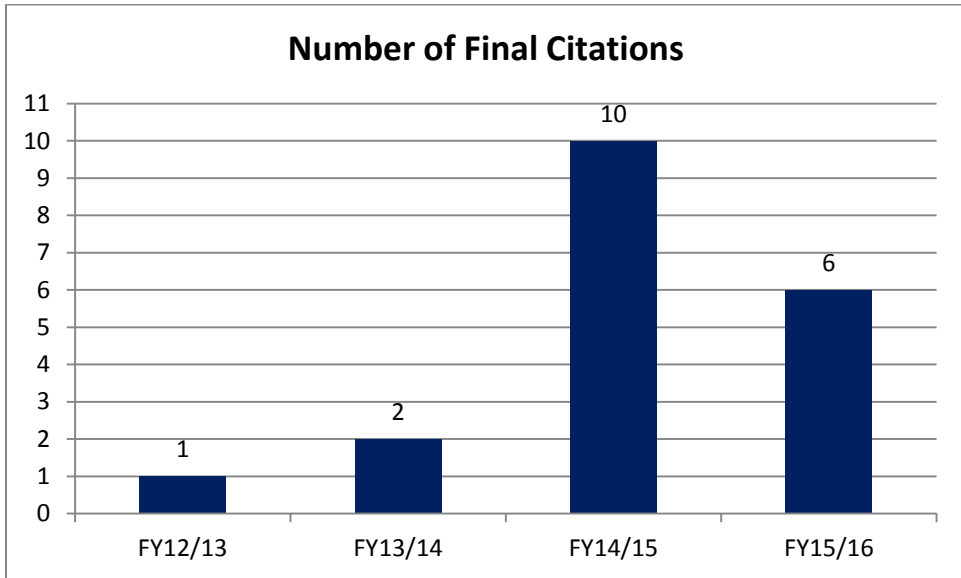
## Complaint Investigation Phase



NOTE: FY15/16 statistics are through December 31, 2015

# G&G ENFORCEMENT PROGRAM

## Citations (Informal Enforcement Actions)

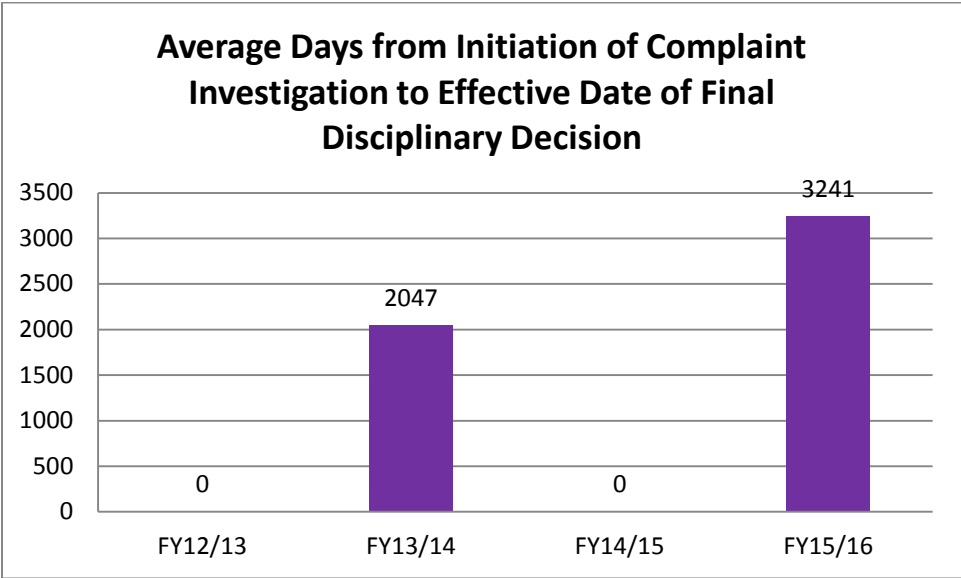
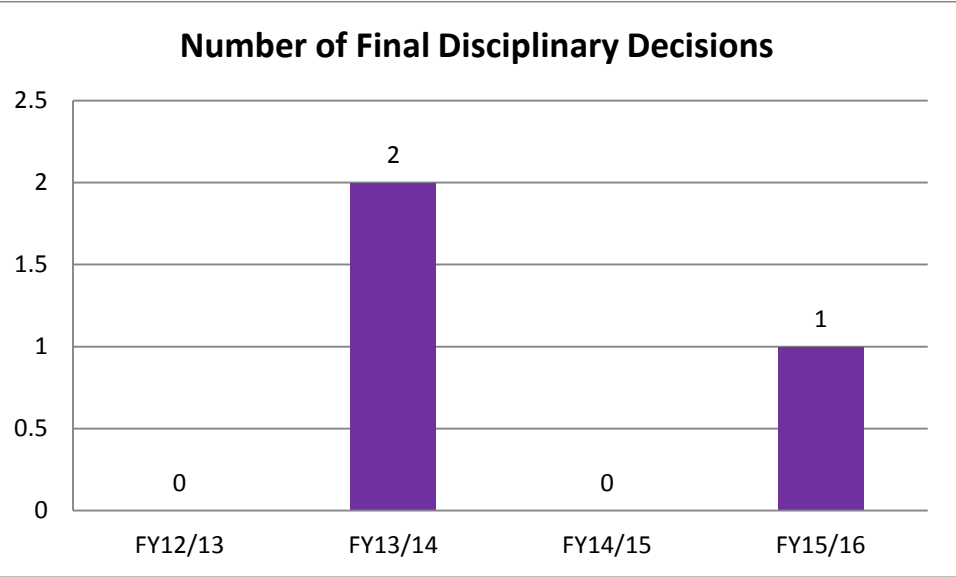
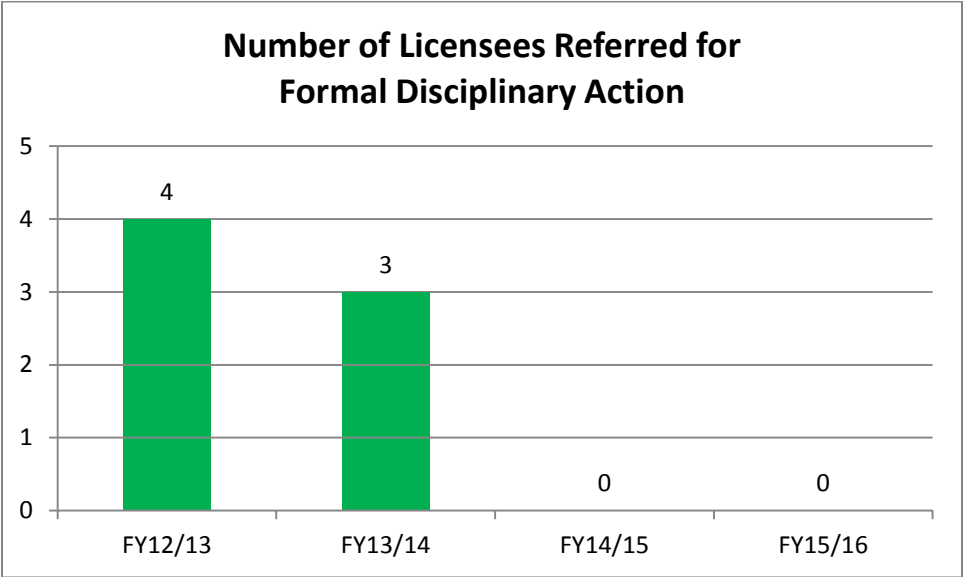


NOTE: FY15/16 statistics are through December 31, 2015



# G&G ENFORCEMENT PROGRAM

## Formal Disciplinary Actions against Licensees



NOTE: FY15/16 statistics are through December 31, 2015



## **VI. Exams/Licensing**

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- A. Fall 2015 Examination Results
- B. Fingerprint Program Update
- C. Delinquent Reinstatement Requirements



# Fall 2015 Professional Engineer, Land Surveyors, and Geology Examination Statistics

## Civil Engineering Examinations

	Pass	Fail	Total	Pass Rate
Principles & Practices (National)	675	854	1529	44%
Seismic Principles	671	963	1634	41%
Engineering Surveying	889	872	1761	50.5%

## Land Surveying Examinations

Principles & Practices (National)	16	23	39	41%
Surveying (State Specific)	29	129	158	18%

## Other Engineering Discipline Exams

Chemical	21	12	33	64%
Control Systems	19	8	27	70%
Electrical	95	161	256	37%
Fire Protection	16	13	29	55%
Mechanical	171	120	291	59%
Metallurgical	8	3	11	73%
Nuclear	0	0	0	0%
Petroleum	3	2	5	60%
Traffic	34	37	71	48%

## 2015 Geotechnical Continuous Testing

Geotechnical	18	42	60	30%
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## Structural

Lateral Forces	31	37	98	32%
Vertical Forces	39	58	97	40%

## 2015 Fundamentals Examinations

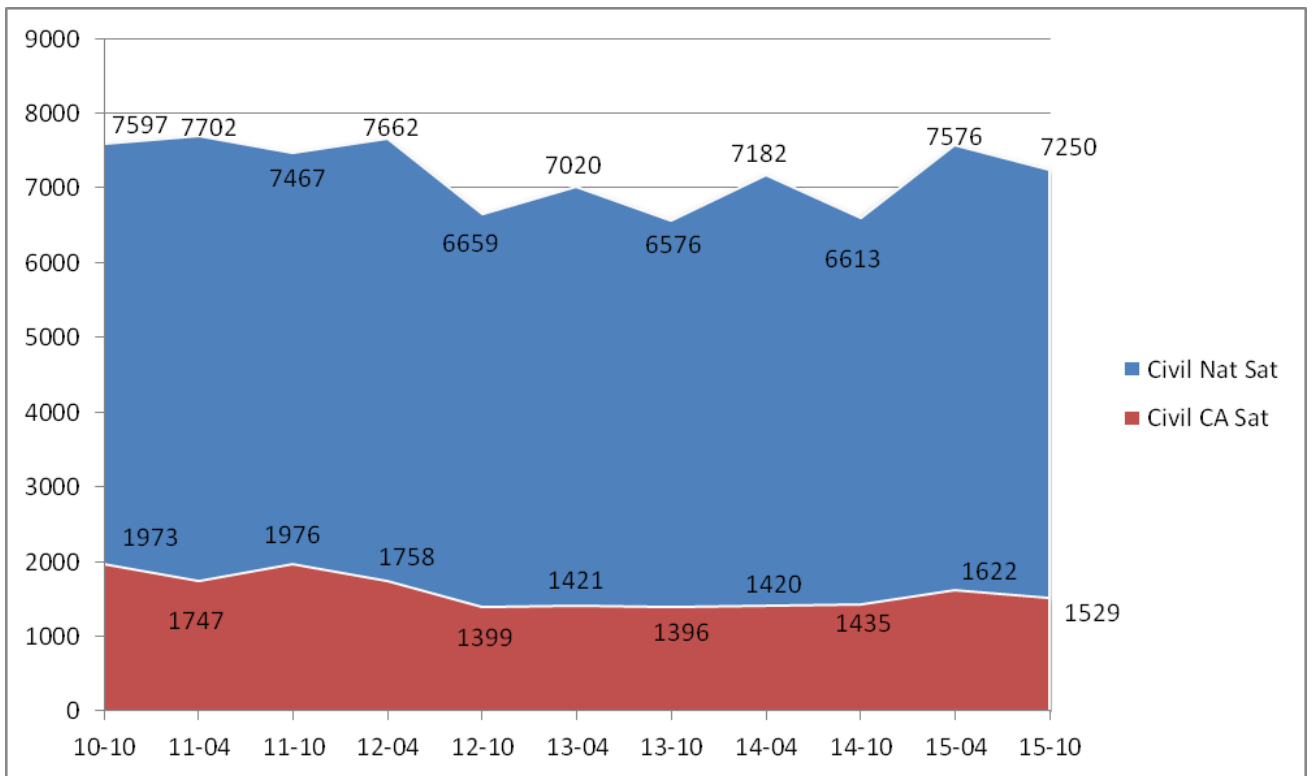
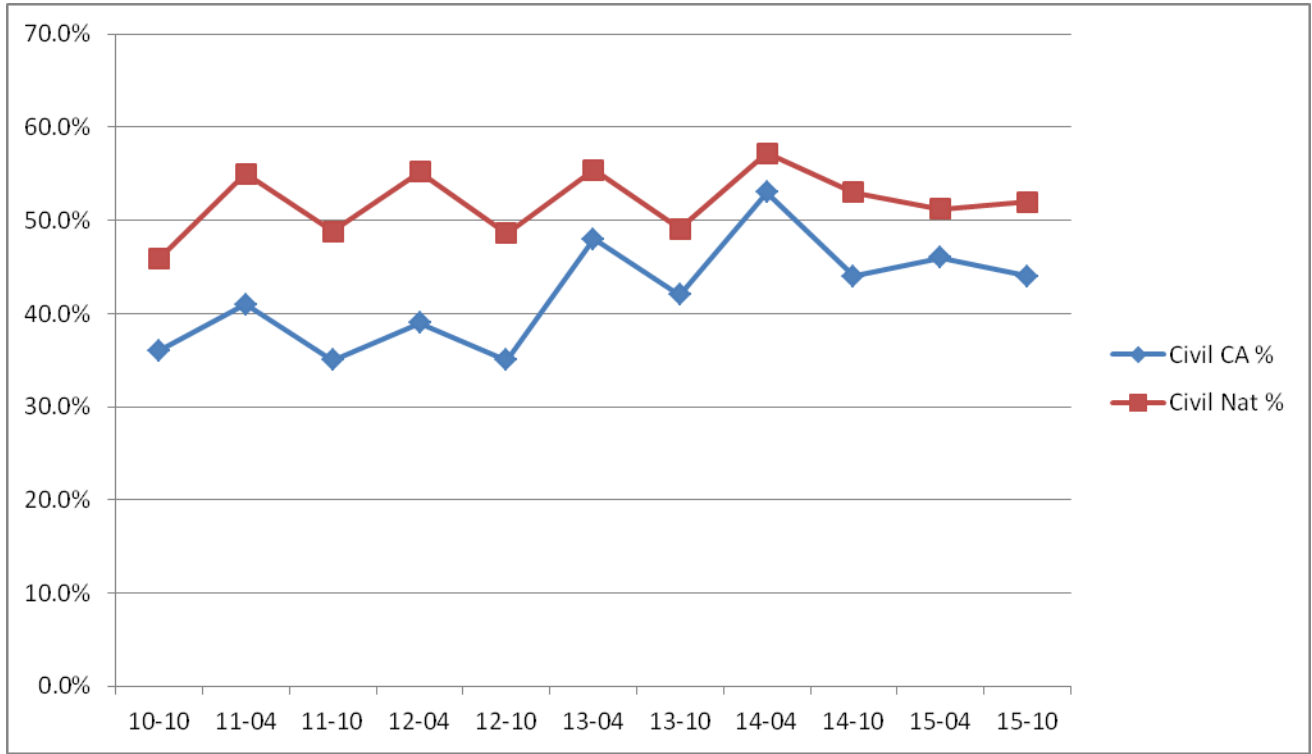
Engineering	3081	1996	5077	61%
Land Surveyors	60	83	143	42%

# Fall 2015 Professional Engineer, Land Surveyors, and Geology Examination Statistics Cont.

Geology				
	Pass	Fail	Total	Pass Rate
ASBOG® Fundamentals of Geology**	55	31	86	64%
ASBOG® Practice of Geology	34	18	52	65%
California Specific Examination	51	31	82	62%
Specialty Certifications and Professional Geophysicist				
Certified Engineering Geologist	20	29	49	41%
Certified Hydrogeologist	12	6	18	67%
Professional Geophysicist	4	4	8	50%

## California Civil Engineer Results

### National PE - Civil Results

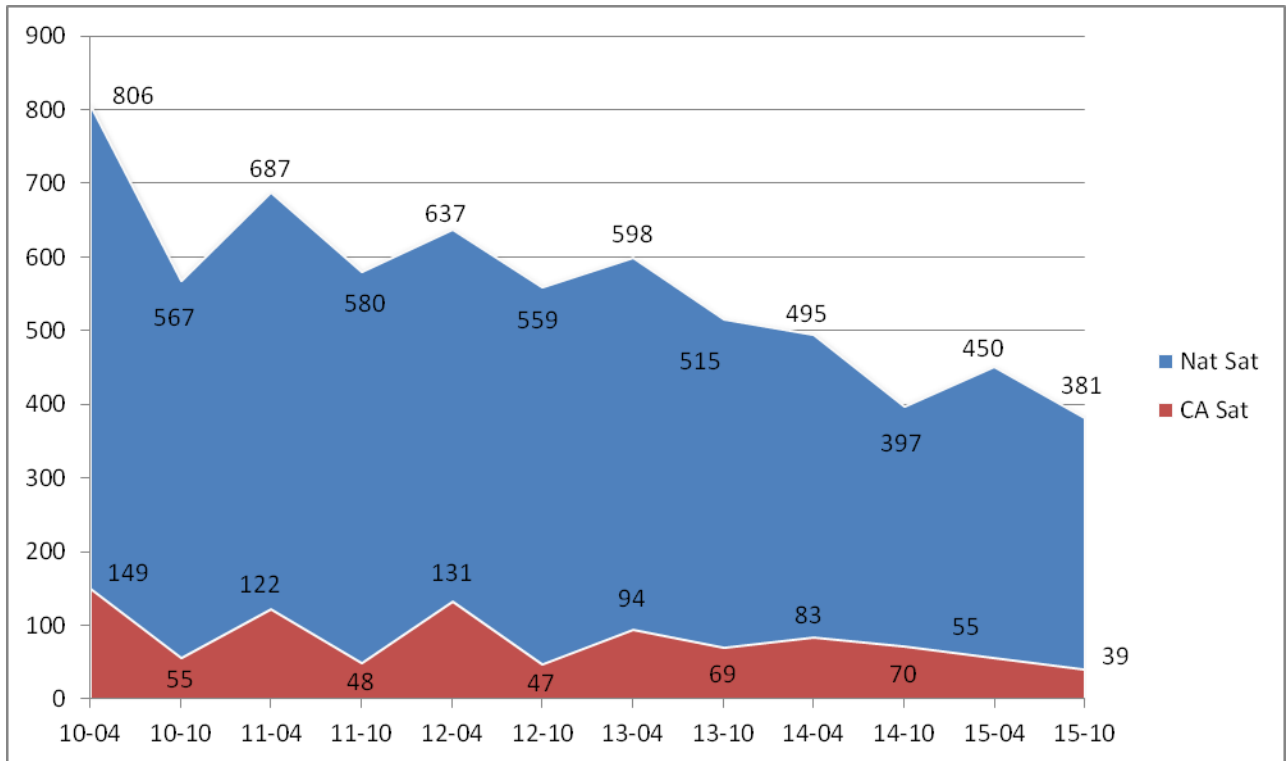
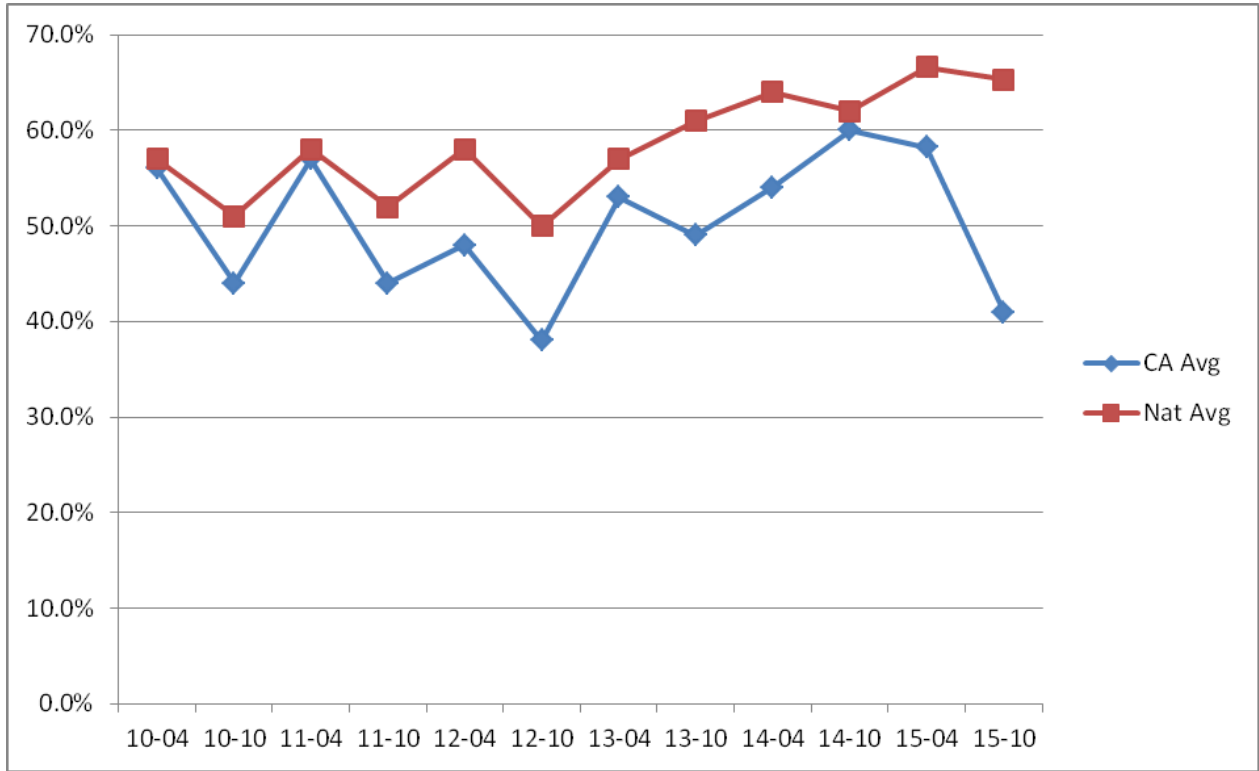






## California Land Surveyor Results

### National Principles of Surveying (PS) Results





## **DELINQUENT REINSTATEMENT REQUIREMENTS**

The issue of granting delinquent reinstatement licenses to engineering and land surveying applicants has been discussed by the Board several times in the past. On January 1, 1995, legislation became effective that shortened the delinquency period from five to three years. Effective January 1, 2000, Board Rule 424.5 was substantially revised from its original form that was enacted in May 1995. The discussions have ranged from establishing a specific period of time beyond the three years during which the license could be reinstated, with any license beyond that period ineligible for reinstatement so that the former licensee would have to apply for a new license, to removing the provisions allowing for reinstatement altogether.

Attached are tables created on October 1, 2015, using data obtained from the Application Tracking System (ATS). The first table shows applications received per year by discipline, and a graph illustrating the same data follows. Not all applications received are completed, so this number is larger than those sent to the Board for approval. The second table shows those who have completed the reinstatement process and have had their license restored. As expected, this number is also less than the received applications in the first table & graph. Applicants do not complete the process for a number of reasons: some do not pay the required fees, take and pass the required exams, or simply decide to opt out. Both tables show a reduction in the number of reinstatement applications received by the Board in the last few years.

Unlike engineering and land surveying licenses, geologist and geophysicist licenses that are expired for more than five years cannot be reinstated. The former licensee must apply for a new license.

During its discussions of this item at the November 2015 meeting, the Board requested additional information prior to making a decision on how to proceed, including statistical data regarding geologists who apply for a new license after allowing the original to be expired beyond the five-year period for renewal and options available to individuals who are licensed in other states.

From the data available to us, we were able to identify 10 individuals who had been issued a new professional geologist license after allowing the first one to expire beyond five years. On average, these individuals maintained their initial license for a little more than seven years, and then waited a little more than seven years before applying for a new license.

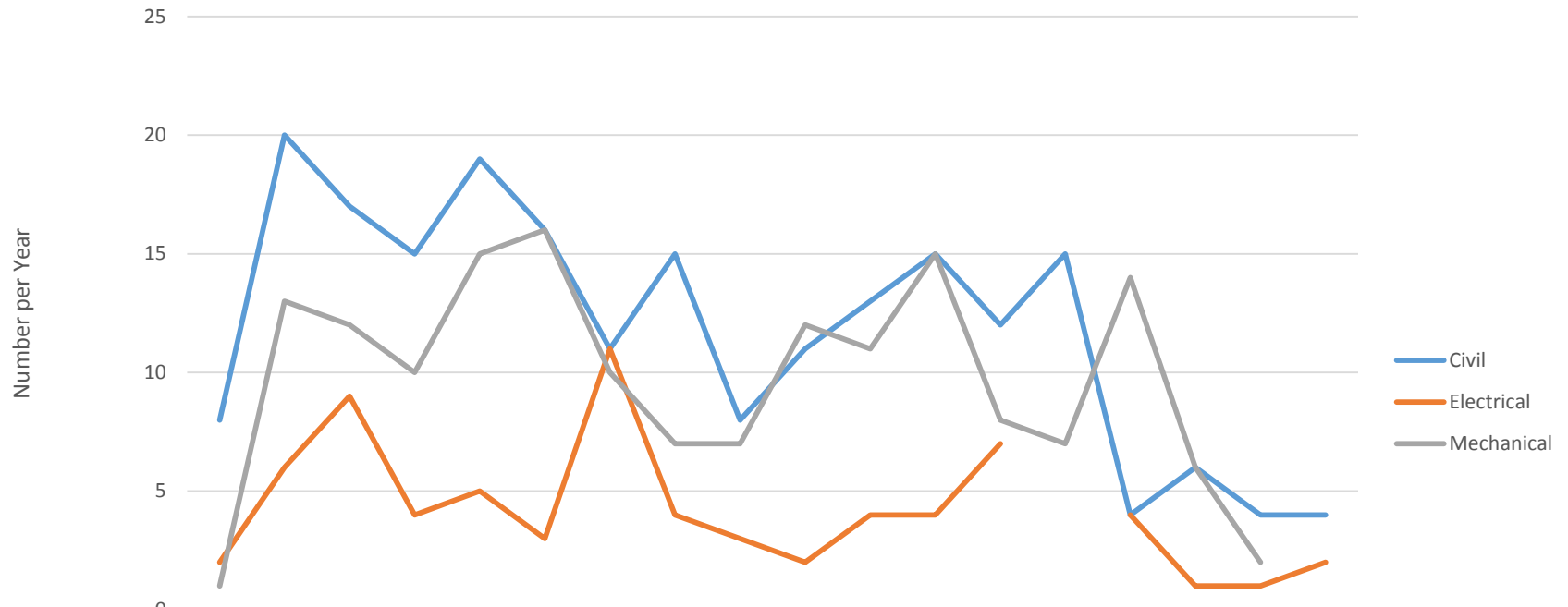
If a professional engineer or land surveyor allows their California license to expire beyond the current delinquent period of three years, and they are currently licensed in another state, they can apply for a new license via the comity process, as outlined in Business and Professions Code sections 6759 (engineers) and 8748 (land surveyors). They would have to provide an application to verify that they meet the qualifying experience requirements, which they would have to do as an applicant for a new license. We would then verify whether they have passed examinations that are

equivalent to the ones we would give for licensure, which could be only a national examination, only a state examination, or a combination of both a national and state examinations, and we would waive whichever examinations were deemed to be equivalent.

The statutes and regulations pertaining to delinquent licenses and comity applicants are included for reference.

License	Yearly Reinstatement Applications																		Grand Total
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	
Agricultural																	1		1
Chemical			3	3		1	1	1	2		1	1				1		2	16
Civil	8	20	17	15	19	16	11	15	8	11	13	15	12	15	4	6	4	4	213
Control System			1		1		1					3	1						7
Corrosion						1									1				2
Electrical	2	6	9	4	5	3	11	4	3	2	4	4	7		4	1	1	2	72
Fire Protection									1	1									2
Geotechnical	1																		1
Industrial		1	1			1					2				1				6
Land Surveyor		1	1		3	2			1	1				1					10
Manufacturing			1	1	1							1							4
Mechanical	1	13	12	10	15	16	10	7	7	12	11	15	8	7	14	6	2		166
Metallurgical										1								1	2
Nuclear															1				1
Petroleum			1	1	1					2									5
Quality						1	1												2
Safety	1			1										1					3
Structural		1	2	1		3		2		2									11
Traffic		1	1	1		1													4
Grand Total	13	43	49	37	45	45	35	29	22	32	31	39	28	24	25	14	8	9	528

Reinstatements by Discipline(Civil, Electrical and Mechanical)



	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Civil	8	20	17	15	19	16	11	15	8	11	13	15	12	15	4	6	4	4
Electrical	2	6	9	4	5	3	11	4	3	2	4	4	7		4	1	1	2
Mechanical	1	13	12	10	15	16	10	7	7	12	11	15	8	7	14	6	2	

Axis Title

License	Licensed per Year																		Grand Total
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	
Agricultural																	1		1
Chemical			2	3		1	1		2		1	1							11
Civil	8	16	12	13	12	8	7	10	7	6	7	9	9	9	2	2		2	139
Control System					1		1					1							3
Corrosion						1													1
Electrical	1	6	9	4	5	2	10	3	3	2	4	3	6		1		1	1	61
Fire Protection									1	1									2
Geotechnical	1																		1
Industrial		1	1			1					1								4
Land Surveyor		1	1		2				1	1									6
Manufacturing			1	1	1														3
Mechanical		12	11	7	14	16	9	7	6	12	6	10	7	3	10	5	1		136
Metallurgical										1									1
Petroleum				1	1					1									3
Quality						1													1
Safety	1			1										1					3
Structural		1	2	1		1		1		1									7
Traffic		1	1			1													3
Grand Total	11	38	40	31	36	32	28	21	20	25	19	24	22	13	13	7	3	3	386

## **Professional Engineers Act (Business and Professions Code section 6700, et seq.)**

### **Section 6759.**

The board, upon application therefor, on its prescribed form, and the payment of the fee fixed by this chapter, may issue a certificate of registration as a professional engineer, without written examination, to any person holding a certificate of registration issued to him or her by any state or country when the applicant's qualifications meet the requirements of this chapter and rules established by the board. The board shall not require a comity applicant to meet any requirement not required of California applicants. For purposes of this section, equivalent second division examinations shall be written examinations prepared by or administered by a state or territory either by single or combined branch at the level generally administered by the board to persons who passed or were exempted from the first division examination. Applicants who have passed an equivalent second division combined branch or a single branch examination in a branch not recognized for registration in California shall be registered in the branch in which their experience and education indicate the closest relationship.

### **Section 6795.**

Certificates of registration as a professional engineer, and certificates of authority, shall be valid for a period of two years from the assigned date of renewal. Biennial renewals shall be staggered on a quarterly basis. To renew an unexpired certificate, the certificate holder shall, on or before the date of expiration indicated on the renewal receipt, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this chapter.

### **Section 6795.1.**

Within 60 to 90 days prior to the expiration of a certificate of registration or certificate of authority, the board shall mail to the registrant or authority holder a notice of the pending expiration. That notice shall include application forms for renewal. If there is no response by the expiration date, the board shall provide a second notice to the registrant's or authority holder's address.

### **Section 6796.**

Except as otherwise provided in this article, certificates of registration as a professional engineer, and certificates of authority may be renewed at any time within three years after expiration on filing of application for renewal on a form prescribed by the board and payment of all accrued and unpaid renewal fees. If the certificate is renewed more than 60 days after its expiration, the certificate holder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs.

The expiration date of a certificate renewed pursuant to this section shall be determined pursuant to Section 6795.

### **Section 6796.3.**

Certificates of registration as a professional engineer, and certificates of authority to use the title "structural engineer," "soil engineer," or "consulting engineer" that are not renewed within three years after expiration may not be renewed, restored, reinstated, or reissued unless all of the following apply:

(a) The registrant or certificate holder has not committed any acts or crimes constituting grounds for denial of registration or of a certificate under Section 480.



(b) The registrant or certificate holder takes and passes the examination that would be required of him or her if he or she were then applying for the certificate for the first time, or otherwise establishes to the satisfaction of the board that, with due regard for the public interest, he or she is qualified to practice the branch of engineering in which he or she seeks renewal or reinstatement.

(c) The registrant or certificate holder pays all of the fees that would be required of him or her if he or she were then applying for the certificate for the first time. If the registrant or certificate holder has been practicing in this state with an expired or delinquent license and receives a waiver from taking the examination as specified in subdivision (b) then he or she shall pay all accrued and unpaid renewal fees.

The board may, by regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a certificate is issued without an examination pursuant to this section.

## **Professional Land Surveyors' Act (Business and Professions Code section 8700, et seq.)**

### **Section 8748.**

The board, upon application therefor, and the payment of the fee fixed by this chapter, may issue a land surveyor's license, without written examination, to any person who holds a valid land surveyor's license issued to him or her by any state or country when the applicant's qualifications meet the requirements of this chapter and rules established by the board.

### **Section 8801.**

Licenses issued under this chapter expire every two years, if not renewed. Biennial renewals shall be staggered on a quarterly basis. To renew an unexpired license the license holder shall on or before the date of expiration indicated on the renewal receipt, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this chapter.

### **Section 8802.**

Except as otherwise provided in this article, licenses issued under this chapter may be renewed at any time within three years after expiration on filing of application for renewal on a form prescribed by the board and payment of all accrued and unpaid renewal fees. If the license is renewed more than 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 8801 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

### **Section 8803.**

A license which is not renewed within three years after its expiration may not be renewed, restored, reissued, or reinstated thereafter, unless all of the following apply:

(a) The licensee has not committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(b) The licensee pays all of the fees which would be required if applying for the license for the first time. If the registrant or certificate holder has been practicing in this state with an expired or delinquent license and receives a waiver from taking the examination as specified in subdivision (c) then he or she shall pay all accrued and unpaid renewal fees.

(c) The licensee takes and passes the examination which would be required if applying for the license for the first time, or otherwise establishes to the satisfaction of the board that, with due regard for the public interest, the licensee is qualified to engage in the practice of land surveying.

The board may, by appropriate regulation, authorize the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.

**Board Rules Pertaining to Engineering and Land Surveying  
(Title 16, California Code of Regulations section 400, et seq.)**

**424.5. Reinstatement Requirements for Delinquent Applicants.**

(a) A license which has not been renewed within the time required under Business and Professions Code section 6796.3 or 8803 is considered delinquent and, except as provided in subdivision (c), shall be reinstated if the applicant complies with the following:

(1) Submits evidence satisfactory to the Board that the applicant is qualified in the branch for which he or she is applying. This evidence shall consist of:

(A) A completed, typewritten application on a form as specified in Section 420 accompanied by the required application fee as specified in Section 407 (b)(1)-(4).

(B) Completed appropriate reference forms as specified in Sections 427.10, 427.20, or 427.30. The submission of a reference which states that the applicant is not technically qualified to be licensed shall be grounds for denial.

(2) Takes and passes the examination on the applicable state laws and board regulations as specified in Business and Professions Code section 6755.2 or 8741.1 .

(3) Takes and passes examinations on seismic principles and engineering surveying, if he or she is a civil engineering applicant whose initial registration was issued prior to January 1, 1988.

(4) Pays all accrued and unpaid renewal fees.

(5) Has not committed any acts or crimes constituting grounds for denial of licensure under Business and Professions Code section 480.

(b) An applicant who is unable to submit evidence satisfactory to the Board that he or she is qualified as provided in subdivision (a)(1) shall take and pass the appropriate second division examination or the appropriate title authority examination in addition to the requirements specified in subdivision (a)(2)- (5) prior to reinstatement of the delinquent license.

(c) Notwithstanding subdivisions (a) and (b), the Board may pursue action, including but not limited to revocation or suspension of the license pursuant to Business and Professions Code sections 6775, 6776, 8780, and 8781, issuance of a citation containing an order to pay an administrative fine pursuant to Sections 473 through 473.4, filing of criminal charges pursuant to Business and Professions Code sections 6787 and 8792, and denial of the application pursuant to Section 420, against the applicant if evidence obtained during an investigation reveals that the applicant has violated any provision of the Business and Professions Code, the California Code of Regulations, or other applicable laws and regulations related to the practices of professional engineering or professional land surveying during the period of delinquency, including, but not limited to, practicing or offering to practice with an expired or delinquent license.

(d) The application response timeframe is as specified in Section 470 (a).

(e) The Board's time period for processing an application from receipt of the initial application to the final decision regarding issuance or denial of licensure is as specified in Section 471.

As used in this section, "license" includes certificate of registration as a professional engineer, licensure as a professional land surveyor, and certificates of authority to use the title "structural engineer," "soil engineer," or "consulting engineer."

## **Geologist and Geophysicist Act (Business and Professions Code section 7800, et seq.)**

### **Section 7847.**

The board, upon application therefor, on its prescribed form, and upon the payment of the application and registration fees fixed by this chapter, which fees shall be retained by the board, may issue a certificate of registration as a geologist or as a geophysicist to a person holding an equivalent certificate of registration as a geologist or as a geophysicist, issued to him by any state or country when the applicant's qualifications meet the other requirements of this chapter and the rules established by the board.

### **Section 7880.**

A certificate of registration as a geologist or as a specialty geologist or as a geophysicist or as a specialty geophysicist shall expire at 12 a.m. of the last day of the birth month of the certificate holder during the second year of a two-year term if not renewed. To renew an unexpired certificate, the certificate holder shall, on or before the date of expiration of the certificate, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this chapter.

For purposes of implementing the distribution of the renewal of registrations throughout the year, the board may establish a system of staggered certificate expiration dates and a pro rata formula for the payment of renewal fees by certificate holders affected by the implementation of the program.

### **Section 7881.**

Except as otherwise provided in this article, certificates of registration as a geologist or as a geophysicist, or certified specialty certificates, may be renewed at any time within five years after expiration on filing an application for renewal on a form prescribed by the board and payment of all accrued and unpaid renewal fees. If the certificate is renewed more than 30 days after its expiration, the certificate holder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which all renewal fees are paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the certificate shall continue in effect through the date provided in Section 7880 that next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

### **Section 7884.**

Certificates of registration as a geologist or as a geophysicist or certified specialty certificates which are not renewed within five years after expiration may not be renewed, restored, reinstated, or reissued thereafter. The holder of such certificate may apply for and obtain a new certificate, however, if:

(a) He has not committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(b) He takes and passes the examination, if any, which would be required of him if he were then applying for the certificate for the first time.

The board may, by regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a certificate is issued without an examination pursuant to the provisions of this section.

**VII. Approval of Delinquent Reinstatements**

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## VIII. Administration

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### A. Budget Summary





**Fiscal Year (FY) 2015/16 Budget Overview:**

The information provided below is a summary of the Engineers and Land Surveyors Board fund and the Geologists & Geophysicists Account. The data is based on approved Governor’s Budget, projected expenditures & revenue, projections to year-end, applications received and renewals processed through November for the current FY 2015/16 and prior year FY 2014/15.

**Engineers and Land Surveyors (PELS) Fund**

<b>Fiscal Month 5</b>	<b>FY 15/16</b>	<b>FY 14/15</b>
<b>Expenditures</b>	\$4.1 Million	\$3.7 Million
<b>Revenue</b>	\$5.4 Million	\$4.8 Million
<b>Applications</b>	4,462	4,678
<b>Renewals</b>	36,635	32,036

<b>Budget Allotment</b>	\$10.12 Million
<b>Projection to Year-End</b>	\$7.79 Million
<b>Surplus/Deficit</b>	\$2.32 Million
<b>Revenue (Year-End)</b>	\$8.08 Million

**Geologist and Geophysicists (GEO) Fund**

<b>Fiscal Month 5</b>	<b>FY 15/16</b>	<b>FY 14/15</b>
<b>Expenditures</b>	\$482 Thousand	\$498 Thousand
<b>Revenue</b>	\$530 Thousand	\$530 Thousand
<b>Applications</b>	166	179
<b>Renewals</b>	1,961	2,064

<b>Budget Allotment</b>	\$ 1.48 Million
<b>Projection to Year-End</b>	\$1.23 Million
<b>Surplus/Deficit</b>	\$252 Thousand
<b>Revenue (Year-End)</b>	\$1.1 Million

Overall, the Board is generating more revenue than allocated expenses and is projected to have a surplus at the end of the year. Please note: Renewals cycles are cyclical depending on the FY. Additionally, the application fluctuations is a result of filing dates.

## 0770 - Board for Prof. Engineer's, Land Surveyor's and Geologist's Analysis of Fund Condition

(Dollars in Thousands)

### Pending 2016-17 Governor's Proposed Budget

**\$4.0 Million Outstanding General Fund Loan**

	ACTUAL 2014-15	Budget Act CY 2015-16	BY 2016-17
<b>BEGINNING BALANCE</b>	\$ 5,830	\$ 6,991	\$ 7,259
Prior Year Adjustment	-43	-	-
Adjusted Beginning Balance	\$ 5,787	\$ 6,991	\$ 7,259
<b>REVENUES AND TRANSFERS</b>			
Revenues:			
125600 Other regulatory fees	\$ 125	\$ 92	\$ 107
125700 Other regulatory licenses and permits	\$ 2,552	\$ 2,458	\$ 2,799
125800 Renewal fees	\$ 5,278	\$ 5,441	\$ 6,322
125900 Delinquent fees	\$ 59	\$ 66	\$ 75
141200 Sales of documents	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 15	\$ 15	\$ 1
150500 Interest Income from interfund loans	\$ 7	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 10	\$ 9	\$ 9
161400 Miscellaneous revenues	\$ 2	\$ 1	\$ 1
Totals, Revenues	\$ 8,048	\$ 8,082	\$ 9,314
Transfers from Other Funds			
FO0001 Proposed GF Loan Repayment per item 1110-011-0770, Budget Act of 2011	\$ 500	\$ -	\$ 3,200
Transfers from Other Funds			
TO0001 Transfer in from Geology AB 177, Chapter 428	\$ -	\$ -	\$ 993
Totals, Revenues and Transfers	\$ 8,548	\$ 8,082	\$ 13,507
Totals, Resources	\$ 14,335	\$ 15,073	\$ 20,766
<b>EXPENDITURES</b>			
Disbursements:			
1110 Program Expenditures (Governor's Budget)	\$ 7,336	\$ 10,116	\$ 11,914
<b>Projected Program Expenditures</b>			
Personnel Services		\$ 2,662	
Prorata		\$ 1,557	
General		\$ 941	
Examination		\$ 1,377	
Enforcement		\$ 1,258	
<b>Sub-Total</b>		\$ 7,796	
8880 Financial Information System for CA (State Operations)	\$ 8	\$ 18	\$ 14
Total Disbursements	\$ 7,344	\$ 7,814	\$ 11,928
<b>FUND BALANCE</b>			
Reserve for economic uncertainties	\$ 6,991	\$ 7,259	\$ 8,838
<b>Months in Reserve</b>	10.7	7.3	8.7

## 0205 - Geology

### Analysis of Fund Condition

(Dollars in Thousands)

**Pending 2016-17 Governor's Proposed Budget**

Fund and Appropriation merged with BPELS effective 7/1/2016

		Budget	
	ACTUAL	Act	BY
	2014-15	CY	2016-17
		2015-16	2016-17
<b>BEGINNING BALANCE</b>	\$ 989	\$ 1,122	\$ 993
Prior Year Adjustment	98	-	-
Adjusted Beginning Balance	\$ 1,087	\$ 1,122	\$ 993
<b>REVENUES AND TRANSFERS</b>			
Revenues:			
125600 Other regulatory fees	\$ 7	\$ 11	\$ -
125700 Other regulatory licenses and permits	\$ 275	\$ 257	\$ -
125800 Renewal fees	\$ 802	\$ 817	\$ -
125900 Delinquent fees	\$ 16	\$ 15	\$ -
141200 Sales of documents	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 3	\$ 3	\$ -
150500 Interest Income from interfund loans	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ -	\$ -	\$ -
Totals, Revenues	\$ 1,103	\$ 1,103	\$ -
Transfers to Other Funds			
TO0001 Transfer to BPELSG AB 177, Chapter 428	\$ -	\$ -	\$ -993
Totals, Revenues and Transfers	\$ 1,103	\$ 1,103	\$ (993)
Totals, Resources	\$ 2,190	\$ 2,225	\$ -
<b>EXPENDITURES</b>			
Disbursements:			
1110 Program Expenditures (Governor's Budget)	\$ 1,067	\$ 1,481	\$ -
<b>Projected Program Expenditures</b>			
Personnel Services		\$ 516	
Prorata		\$ 186	
General		\$ 36	
Examination		\$ 453	
Enforcement		\$ 38	
<b>Sub-Total</b>		<b>\$ 1,229</b>	
8880 Financial Information System for CA (State Operations)	\$ 1	\$ 3	\$ -
Total Disbursements	\$ 1,067	\$ 1,232	\$ -
<b>FUND BALANCE</b>			
Reserve for economic uncertainties	\$ 1,122	\$ 993	\$ -
<b>Months in Reserve</b>	10.9	4.5	0.0



## **IX. Executive Officer's Report**

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- A. Legislation and Regulation Workgroup Summary
- B. Personnel
- C. BreEZe Update
- D. ABET
- E. ASBOG
- F. NCEES
- G. Outreach
- H. Strategic Plan Year Two Goals (Possible Action)



## Regulations

The Board is currently in the process of amending a number of our regulations.

### **1. Citations (472-473.4/3062-3063.4)**

- Current location in-house, in progress.
  - Board approved initial rulemaking proposal March 8, 2012.
  - Staff developing Notice and Initial Statement of Reasons for submittal and official notice with the Office of Administrative Law (OAL).

### **2. Exam Appeals Repeal (443, 444, 3063.1, 3037.1)**

- Current location in-house, in progress.
  - Board approved initial rulemaking proposal March 7, 2013.
  - Staff developing Notice and Initial Statement of Reasons for submittal and official notice with the Office of Administrative Law (OAL).

### **3. Waiver of Fundamentals Exam (438(a)(2), (b)(2), & (b)(7))**

- Current location DCA. Final rulemaking package is located at DCA budgets updated October 27, 2015.
  - Board approved initial rulemaking proposal February 9, 2015.
  - Noticed to OAL May 22, 2015, for 45 day Comment Period.
  - OAL Comment Period ended July 6, 2015.
  - Board approved final rulemaking package, July 16, 2015.
  - Final package sent to DCA final review August 10, 2015.

### **4. SE, GE qualifications/experience (426.10/426.14/426.50).**

- Current location in-house, in progress.
  - Staff developing Notice and Initial Statement of Reasons for submittal and official notice with the Office of Administrative Law (OAL).

### **5. Corner Record (464(g)).**

- Current location OAL. Noticed to OAL November 13, 2015- Comment Period ends December 28, 2015.
  - Board approved initial rulemaking proposal June 11, 2015.
  - Noticed to OAL November 13, 2015, for 45 day Comment Period.
  - OAL Comment Period ended December 28, 2015.
  - Public Hearing held January 5, 2015.
  - Staff completing final rulemaking package for Board approval.





#### Council of Examiners Workshop November 11-12, 2015:

- The processes used by ASBOG for test development and evaluation mirror what BPELSG does for our California Specific Exams.
- The FG and PG exam forms are a fair and reasonable assessments of a candidate's competency.
- The Board's reliance on ASBOG for the two national geology licensure qualification exams (FG and PG) appears to be well placed.
- ASBOG has recently updated the geologist Task Analysis Survey (TAS). Workshops were conducted in 2014 and the report was issued in April 2015. Former BPELSG Board member Erik Zinn participated in the workshop. Two additional California geologists participated as ASBOG members at large. The TAS noted a high degree of consistency for similar tasks across both the 29 ASBOG member states and non-ASBOG states (non-licensure states). The results of the 2015 TAS were used to update the FG and PG exams for October 2015.
- The ASBOG executive committee is aware of the desire of BPELSG to move to computer based administration of the FG and PG exams. It was mentioned in presentations during the COE, and was a topic of discussion at lunch. It appears that they understand our concern, but that they will need some additional guidance on how best to implement CBT.
- There is a limited number of subject matter experts writing the exams. ASBOG seems to recognize the issue and is looking for ways to diversify the pool of subject matter experts and increase participation. If the pool of SMEs continues to remain small, and is not addressed, ASBOG will have significant issues fulfilling their core mission of developing the national exams. It is critical that California geologists and BPELSG remain involved in helping to develop the exams.

#### Annual Meeting of ASBOG Member States November 14, 2015:

- Interim Executive Director Deana Sneyd has been officially hired as ASBOG's new Executive Director.
- ASBOG is developing an administrative workshop to take place in Atlanta on August 4, 2016. The purpose of the workshop is to work with administrative staff from the various state boards to educate them on the examination processes and procedures used for the tests. ASBOG's Executive Director (Deana Snyed) has specifically requested that California BPELSG staff attend and participate in the workshop to share our experience and expertise.
- There was significant discussion of the EPA Coal Combustion Residuals Rule and the EPA comments/opinion of geology licensure. A recent email update from ASBOG indicates that this will be a topic of discussion at the January meeting of the ASBOG executive committee. It is likely that ASBOG will coordinate with the professional societies to try and affect change on this issue on behalf of member boards. Additional efforts to increase the number of states (currently 32) licensing geologists will likely be part of the effort. EPA's Coal Combustion Residuals webpage can be found here <http://www2.epa.gov/coalash/coal-ash-rule>. This second link goes directly to the rule itself. The pertinent language is on page 21337 or it can be found by searching for "geologist". <http://www.gpo.gov/fdsys/pkg/FR-2015-04-17/pdf/2015-00257.pdf>

- There was discussion of the need for ASBOG and the various state licensing boards to improve their visibility with both the professional societies and academics. ASBOG has been attending national and regional Geological Society of America (GSA) meetings and staffing a booth on licensure. GSA targets professors and students vs. working professionals. ASBOG is finding it a good way to inform students and professors of licensure. California will join ASBOG in staffing a booth at the Cordilleran Section meeting of GSA in Ontario, California (April 4-6, 2016).
- Kansas had mentioned outside of the meetings that they have received inquiries regarding geophysics licensure. Texas offered to share their geophysics exam with other interested parties. The Department of Defense (DOD) is creating their own certification for geophysicists who participate in investigation and cleanup of unexploded ordnance (UXO) sites. DOD has a long history of partnering with states through the Interstate Technology Regulatory Council (ITRC). Given the interest of Kansas in geophysics licensure, and the willingness of Texas to share their exam, there may be an opportunity to suggest the creation of a national exam administered by ASBOG.
- The ASBOG *Committee on Finance* briefed the members on the fee increase for the FG examination. The executive committee has voted to increase the fee for the FG examination from \$150 to \$200. Increases in costs over the last 10 years have resulted in a projected budget shortfall for administering this exam beginning in 2016. ASBOG anticipates implementing the fee increase starting in 2018.
- Per the ASBOG bylaws, the general business of ASBOG is conducted by the executive committee (i.e. *with limited exceptions, all decisions are made by the executive committee not by vote of the membership*). The executive committee does not need to have a vote of the member states to increase the FG examination fee. However, the ASBOG president requested a vote to gauge member state support. All member states present concurred with the decision.

#### Ideas for California Participation:

- Explore preparing a suggested roadmap for ASBOG on how to transition to CBT. It may be a good educational effort and advance the goal of CBT.
- Offer to host ASBOG SME workshops here in California, perhaps providing meeting room accommodations and helping with recruitment. This would help ensure that California is represented in the exam workshops.

# Strategic Action Plan Update

## Recommended Objectives for 2016

- 1.2 Develop fact sheets that describe the legal authority, functions, and benefits for the public for each of the license types regulated by the Board.
- 2.6 Examine the appropriateness of current education / experience requirements for licensure.
- 4.1 Leverage collaborative relationships to encourage a reduction in cycle times at the Office of Administrative Hearings, Division of Investigation, and Attorney General's Office.
- 6.5 Educate the public about the steps and timing in the enforcement process.

## Completed Objectives for 2015

- 3.1 Establish a legislative and regulatory work group of two Board members and staff and provide a written report at Board meetings.
- 4.2 Analyze and determine reasonable time frames and develop a benchmark/expectation for each step in the investigation.
- 4.4 Research the feasibility of adding a legal requirement that licensees respond to Board investigative inquiries within a specified period of time.
- 5.1 Develop a multi-phase stakeholder outreach plan.
- 5.3 Produce a newsletter on a quarterly basis that includes enforcement actions.
- 5.4 Encourage DCA and Agency to approve speaking and/or participating in conferences and other public and/or licensee outreach events.

## Carryover Year-One Objectives

- 1.1 Identify the minimum curriculum required for a qualifying geological sciences degree.
- 2.4 Evaluate and identify ways to reduce the application process timeframes.
- 4.6 Improve the technical expert consultant selection process, training, and compensation to enhance quality and quantity.
- 5.2 Communicate enforcement actions on an ongoing basis on the website as soon as feasible.
- 5.5 Expand the Board's social media presence.
- 5.6 Proactively educate stakeholders to prevent violations.
- 6.2 Enhance customer service by providing training for staff.
- 6.3 Implement a plan to improve internal collaboration.
- 6.4 Issue licenses on environmentally friendly wallet-sized cards in addition to current paper license.



**X. Technical Advisory Committees (TACs)**

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- A. Assignment of Items to TACs
- B. Appointment of TAC Members
- C. Reports from the TACs
- D. Approval of Land Surveying TAC Work Plan



**BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS**

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**PROPOSED  
WORK PLAN  
TECHNICAL ADVISORY COMMITTEE (PROFESSIONAL LAND SURVEYOR)****INTRODUCTION**

TAC (PLS) recognizes its position as an advisory committee to the Board, providing input to the liaison Board members on matters requested by the Board for Professional Engineers and Land Surveyors. The input may take the form of assistance to Board staff, direct assistance to the liaison Board members, or recommendations made directly to the Board in the form of proposed motions or recommendations. In all cases, the focus of the activities of the TAC (PLS) will be in the interest of safeguarding property and public welfare.

**YEAR PLAN**

1. To assist the Board staff in the review of applications for licensure as a Professional Land Surveyor.
2. To help clarify "gray" areas in the existing laws, rules, and regulations regarding the practice of land surveying and make recommendations for handling and/or revising the laws, rules, and regulations, where appropriate.
3. To aid in formulating suggested procedures, information required, and questions to be asked with regard to enforcement issues relating to the practice of land surveying, and to advise the Board staff upon review of such enforcement cases.
4. To meet in closed session to address specific consumer and inter-professional complaints, and make recommendations to the Board regarding their solutions.
5. To review proposed legislation that would affect the practice of land surveying.
6. To review ABET matters regarding the practice of land surveying when referred by the Board.
7. To assist with any National Council of Examiners for Engineering and Surveying (NCEES) matters regarding land surveying when referred by the Board.
8. To coordinate with the Board's other Technical Advisory Committees as required by the Board.
9. To assist Board staff in the evaluation of overall requirements for licensure in both legislation and regulation and make recommended changes to meet practice standards.





**XI. President's Report/Board Member Activities**

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## **XII. Approval of Consent Items**

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(These items are before the Board for consent and will be approved with a single motion. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

- A. Approval of the Minutes of the November 5, 2015, and December 4, 2015, Board Meetings



**DRAFT**

**MINUTES OF THE BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS**

**San Bernardino County Public Works, Hearing Room  
825 E. 3rd Street  
San Bernardino, CA 92415**

**November 5, 2015  
Thursday, November 5, beginning at 9:00 a.m.**

<b>Board Members Present:</b>	Robert Stockton, President; Coby King, Vice President; Kathy Jones Irish; Natalie Alavi; Asha Brooks; Chelsea Esquibias; Mohammad Qureshi; Karen Roberts; Jerry Silva; and Patrick Tami
<b>Board Members Absent:</b>	Eric Johnson; Betsy Mathieson; Hong Beom Rhee;
<b>Board Staff Present:</b>	Ric Moore (Executive Officer); Nancy Eissler (Assistant Executive Officer); Tiffany Criswell (Enforcement Manager); Celina Calderone (Board Liaison); Kara Williams (Budget Analyst); Larry Kereszt (Licensing Manager); and Gary Duke (Legal Counsel)

**I. Roll Call to Establish a Quorum**

President Stockton called the meeting to order at 9:03 a.m., and a quorum was established.

Mr. Silva arrived at 9:04 a.m.

**II. Public Comment**

Carl Josephson, representing SEAOC, expressed appreciation to the Board for facilitating the joint Civil/Structural TAC meeting to discuss SEAOC's significant structures proposal. They believe good progress was made.

Kenneth Rosenfield, representing ASCE, informed the Board about the "Raise the Bar" initiative. This proposal would increase educational requirements for licensure. He reported that NCEES recently adopted a policy statement on this issue. He also offered meeting space for future Board meetings in the City of Laguna Hills City Council Chamber.

Art Sutton, representing CSPE, discussed the legislative analysis regarding AB320 which references the CSUS Title Act study.

Chris Ehe, representing Environmental Hightech Engineering, provided background on his family business. He received his PLS license in 1983. He got behind in filing many surveys and the San Bernardino County Surveyor's Office filed a complaint with the Board. He claimed the Board turned his case over to the Attorney General's Office without "peer to peer" discussions. He felt he never had an opportunity to discuss his case, and his license was revoked. He has since recorded all surveys, and there was no harm to the public. He requested to meet with all Board members to discuss the future of his license.

Cary Kato, representing AEG, welcomed the Board to the area between major faults. The feedback he has received from their members indicate they appreciate the dialogue that has been opened up and look forward to continuing the relationship with the Board.

### III. Legislation

#### A. Discussion of Legislation for 2015

Ms. Williams outlined important legislative dates:

- January 1 statutes take effect.
- January 4 legislature reconvenes.
- January 22 is the last day committees will hear and report to the floor for bills introduced in their house in 2015. This is also the last day to submit new bill requests to the Office of Legislative Counsel.
- January 31 is the last day for each house to pass any bills introduced in 2015.

**AB 320** This bill would add the title "Environmental Engineer" to the Board's title acts. The Board is opposed to adding new title acts to our statute because title acts do not regulate the practice of title engineering they only regulate the title itself. Additionally, adding the title environmental engineering would be difficult to define in regulation due to the need to prevent overlap with regulated practices such as civil engineering and geology. This Bill is currently in Senate Appropriations Committee.

The Board has taken a position of "Oppose" on this bill, as amended 7/8/2015.

**AB 85** This bill would specify that the definition of "state body" includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar. The Board already follows the Bagley-Keene Open Meeting Act. This bill would further define a "state body" to include groups of two or more. Gov. Jerry Brown vetoed this bill September 28, 2015.

The Board had taken a position of "Oppose" on this bill, as amended 4/15/15.

**AB 12** This bill would require every state agency, board, bureau, or other entity to review and revise regulations to eliminate inconsistent, overlapping, duplicative, and outdated provisions and adopt the revision. This bill is currently in Senate Appropriations Committee.

The Board has taken a position of “Watch” on the most current version of this bill.

**AB 507** This bill would, on or before March 1, 2016, require the Department of Consumer Affairs to submit an annual report to the Legislature and the Department of Finance for third phase BreZE implementation. This bill is currently in the Senate Business, Professions and Economic Development Committee.

The Board has taken a position of “Watch” on the most current version of this bill

**SB 209** This bill would require the Department of Conservation to offer continuing education opportunities for lead agency employees to become certified and have opportunities for continuing education. Additionally this bill would require the inspection surface mining operation’s to be performed by an appropriately licensed California licensed professional. This bill is currently on the Assembly floor.

Staff recommends the Board take a “Support” position on this bill as amended September 4, 2015.

<b>MOTION:</b>	Vice-President King and Ms. Alavi moved to support SB 209 as amended September 4, 2015.
<b>VOTE:</b>	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Robert Stockton	X				
Coby King	X				
Natalie Alavi	X				
Asha Brooks	X				
Chelsea Esquibias	X				
Eric Johnson				X	
Kathy Jones Irish	X				
Betsy Mathieson				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
William Silva	X				
Patrick Tami	X				

**AB 177** This is the Boards Sunset Bill. This bill was chaptered October 2, 2015, Chapter Number 428, Statutes of 2015.

**AB 181** This is the Omnibus Bill which was originally SB 799. This bill was chaptered October 2, 2015, Chapter Number 430, Statutes of 2015.

**SB 284** This is the limited liability partnership bill which was sponsored by ACEC-CA. It was chaptered on August 10, 2015.

**B. Legislative Proposals for 2016**

Ms. Eissler provided an overview of the legislative proposal process. Ms. Williams listed the following proposals:

- 1) Clarification of Application Process
- 2) Examination on California Laws and Rules
- 3) Separate Renewal and Application Fees
- 4) PG-PGp Sign and Seal
- 5) Geology Examination Contract

<b>MOTION:</b>	Mr. Tami and Ms. Brooks moved to direct staff to pursue the legislative proposals listed above.
<b>VOTE:</b>	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Robert Stockton	X				
Coby King	X				
Natalie Alavi	X				
Asha Brooks	X				
Chelsea Esquibias	X				
Eric Johnson				X	
Kathy Jones Irish	X				
Betsy Mathieson				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
William Silva	X				
Patrick Tami	X				

**IV. Consideration of Rulemaking Proposals**  
No report given.

**V. Presentation Regarding North Carolina Board of Dental Examiners v. Federal Trade Commission (113 S.Ct. 1101 (2015)) and California Attorney General Opinion 15-402**



Ms. Eissler and Mr. Duke provided an informational presentation to the Board on the Supreme Court decision and the advice provided by the California Attorney General. Mr. Duke read a statement prepared by DCA's Legal Office. Ms. Eissler explained that the real issue is whether a claim against the Board for anti-trust violations could be immediately dismissed under the state action immunity defense, not whether the Board has actually engaged in anti-competitive behavior. She pointed out that even if the Board did not meet the new higher standards to have the matter immediately dismissed, it did not mean that it would be proven that the Board had engaged in anti-competitive behavior. Ms. Eissler stressed that it was important for the Board to ensure that it is always acting in accordance with the legislatively-mandated purpose for licensing and regulating professions, which is to protect the health, safety, welfare, and property of the public, rather than in a manner that only benefits licensees.

## **VI. Enforcement**

### **A. Enforcement Statistical Report**

Ms. Criswell reported that, in October, a large number of investigations that were conducted by the Division of Investigations have been closed. However, there was a spike for the average days to completion because of the aging of the cases as the investigations were conducted by the Division of Investigations.

## **VII. Exams/Licensing**

### **A. Fall 2015 Examination Update**

Mr. Kereszt reported that the California Seismic Principles and the Engineering Surveying examinations are still currently being administered. There is a three-week testing window, and this window will conclude November 10. The testing sites have indicated that the administration is going very well. Several candidates experienced computer issues and BPELSG staff is working with Prometric on resolutions to those incidents including the implementation of safeguards to prevent future occurrences. The results for most of the exams should be available by the January 2016 meeting.

### **B. Plans for California State Specific Examinations**

Mr. Kereszt provided history on the evolution of the California state specific examinations and future plans which include NCEES administering the National Professional Surveyor examination year-round by CBT beginning in October 2016, and the Board beginning to administer the California Civil Seismic Principles and Engineering Surveying, California Professional Land Surveyor, Traffic Engineer, California Geologist, and Professional Geophysicist examinations year round by CBT by January 2017.

During Public Comment, Rob McMillian, representing CLSA, reported he was contacted by candidates who expressed their frustration regarding the computer issues with the exam at the Sacramento site.

## **IX. Administration**

### **A. FY 2015/16 Budget Summary**

Ms. Williams reported the information provided is a summary of the Engineers and Land Surveyors fund and the Geologists and Geophysicists fund. The data provided is based on the approved Governor's Budget, projected expenditures, revenue, projections to year-end, applications received, and renewals processed through September for the current Fiscal Year 2015/16 and prior year Fiscal Year 2014/15.

President Stockton requested additional details for the expenditure report be included in future reports.

## **VII. Exams/Licensing (Cont.)**

### **C. Delinquent Reinstatement Requirements**

Ms. Eissler provided an overview on data that was provided in the meeting materials using statistics obtained from the Applicant Tracking System (ATS). The tables represented applications received per year by discipline for engineering and land surveying.

Not all applications submitted are completed by the applicants for various reasons, such as requiring additional information, outstanding fees, and possibly having to retake the examination. This explains why there is a difference between the numbers received versus the number completed.

There has seen a steady reduction in reinstatement applications received by the Board over the last few years.

President Stockton suggested aligning the PE and PLS requirements with the Geologists and Geophysicists requirements.

Vice-President King suggested a renewal cut-off date to renew a license, requiring the candidate to go through further requirements to become reinstated. President Stockton noted that if it has been over five years and the licensee is in another state while continuing to practice engineering and meeting the experience requirements, he would suggest requiring them to take the state specific portion.

Ms. Eissler explained that if someone were licensed in another state, they could apply for a new license via the comity process. Comity applicants must take and pass state specific examinations.

Ms. Eissler will provide scenarios of various options and data regarding delinquent geology licenses at the next meeting for further consideration in this discussion.

**D. Credit for Overlapping Experience When Applying for Licensure or Certification**

Ms. Eissler followed up on a request from the Board regarding how qualifying experience is credited and counted for applicants for licensure or certification especially relating to how overlapping experience time periods are counted. One example for engineers is they must demonstrate qualifying experience in the discipline in which they are applying. Part of that experience can come from education. There is also a provision in the regulation that indicates if someone is applying for a license in another discipline, the education credit can be counted again but not the experience credit and the new experience credit cannot overlap with the other experience. The additional provision for engineers is that if they are using an education degree as part of their qualifying experience, the work experience cannot be counted until after the date the degree is awarded.

Mr. Tami questioned whether there is anything in the law that prevents a Civil Engineer from double-counting experience already claimed for the civil engineer license when applying for a land surveyor license and vice versa. Mr. Duke advised that the Board could request an opinion from the DCA Legal Office on this issue since it would require an in-depth review of both acts and their related combined regulations. The Board directed staff to submit a request to the Legal Office on this matter.

**VIII. Approval of Delinquent Reinstatements**

<b>MOTION:</b>	Mr. Silva and Ms. Jones Irish moved to approve the reinstatements.
<b>VOTE:</b>	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Robert Stockton	X				
Coby King	X				
Natalie Alavi	X				
Asha Brooks	X				
Chelsea Esquibias	X				
Eric Johnson				X	
Kathy Jones Irish	X				
Betsy Mathieson				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
William Silva	X				
Patrick Tami	X				

## IX. Executive Officer's Report

### A. Legislation and Regulation Workgroup Summary

Mr. Moore reported on the regulations the Board is currently in the process of amending. The Corner Record proposal has been approved for the 45-day comment period, which will begin November 13 and close on January 4, 2016. The hearing is scheduled for January 5, 2016.

### B. Personnel

Mr. Moore reported that the Licensing and Enforcement Units received new seasonal help. A new Permanent Intermittent employee was hired for the receptionist position. A limited term position was approved for the Personnel Selection Consultant which will be the in-house psychometrician. This position will assist with exams and has received preliminary approval from the Department of Finance.

### C. BreEZe Update

Release II is scheduled to go live January 19, 2016. The legacy systems will be down for a few days preceding the release. The Office of Information Services has been helpful in the completion of the Request for Qualifications for the business needs assessment.

### D. ABET

Dr. Qureshi reported that he met with the students and discovered that the students were more interested in licensure than the faculty.

Mr. Silva reported that the accreditation process was interesting. He provided his observations during debriefings.

Ms. Roberts was really impressed with the rigorous evaluation process.

Ms. Racca attended two accreditation visits. She provided contrasts between the two schools and reported the ABET evaluators were very consistent.

### E. ASBOG

Mr. Moore reported Ms. Racca will attend the Counsel of Examiners meeting and will attend the annual meeting with Ms. Mathieson via webcast.

Mr. Moore added that correspondence from the Board to ASBOG was sent prior to the Annual Meeting regarding fee increases including a recommendation for computer based testing and exam administration.

Ms. Racca reported that the Interim Executive Director may fill the position permanently.

F. NCEES

1. 2016 Interim Zone Meeting

Mr. Moore reported that the Western Zone meeting will take place May 19-21, 2016 in Anchorage, AK. Mr. Tami suggested that the President and Vice-President attend with Dr. Qureshi as a back-up.

2. Nomination of 2016/2017 NCEES President-Elect

Mr. Moore recommended that the Board formally nominate Mr. Tami to serve as the NCEES President-Elect so that the representatives at the Western Zone meeting may place his name in nomination.

<b>MOTION:</b>	Mr. Silva and Mr. King moved to nominate Mr. Tami to serve as NCEES President-Elect.
<b>VOTE:</b>	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Robert Stockton	X				
Coby King	X				
Natalie Alavi	X				
Asha Brooks	X				
Chelsea Esquibias	X				
Eric Johnson				X	
Kathy Jones Irish	X				
Betsy Mathieson				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
William Silva	X				
Patrick Tami			X		

During public comment, Mr. Josephson announced there will be a PAK study to evaluate the structural exam. NCEES is looking for three people from California to participate in a 20-person group. He is working with Ms. Roberts for recommendations.

Mr. Tami attended the Board of Directors meeting and reported that they the replacement cost for any exam would be \$5.5 to \$7 million dollars. They are updating the examinee registration system, known as the E3 system for 2016 roll-out. They will not be changing the calculator policy.

Mr. Tami added that the Structural exam is a two-component exam, and a candidate must achieve an acceptable score on both components within a 5-year period to pass the exam. He indicated that some boards' laws do not allow for that and that it will come up at the next annual meeting.

## G. Outreach

Mr. Moore spoke at the ACEC Board of Directors meeting and attended the Joint Monterey area ACEC-CA and CLSA meeting Engineers/Surveyors meeting. Ms. Racca met with UOP students and faculty and talked to about 30 students and discussed the Geologist-in-Training (GIT) exam. She met with the professors and department chairs to get input since the Board is considering changing the education requirements for geologists. They are supportive and also wanted to ensure their curriculum was geared for licensure. She also visited CSU San Bernardino and will visit UC Riverside. In December she will visit the Fresno Association of Engineering Geologists and in January she will meet with the Ground Water Resources Association in Sacramento, UC Davis, and possibly CSU Bakersfield. Most professors are not licensed and are seeking a pathway to licensure if not practicing in the field.

Mr. Moore reported that Mike Donelson and Susan Christ are scheduled to visit CalPoly San Luis Obispo to discuss applications and licensing with students and faculty.

Mr. Silva reported that the Society of Hispanic Professional Engineers expressed interest in receiving information and possible outreach from the Board.

President Stockton will attend the California Baptist University engineering orientation class to provide outreach.

Mr. Moore attended the Sacramento and Central Valley CLSA exam preparation course in September and October.

Mr. Tami attended the Modesto Engineers Club and discussed the new NODD form. Mr. Moore reported that the NODD form has brought about much discussion and questions from the public, particularly in regards to the topic of responsible charge criteria.

During public comment, a member of the public reported the Inland Geological Society chapters have a strong outreach program primarily in Riverside, Cal State San Bernardino, and CalPoly. They try to emphasize practical experience and communicate required curriculum.

## X. Technical Advisory Committees (TACs)

### A. Assignment of Items to TACs

No Report Given.

### B. Appointment of TAC Members

No Report Given.

C. Reports from the TACs

Dr. Qureshi reported on the Traffic TAC meeting. They made significant progress on identifying traffic engineering activities and civil engineering activities. They will meet again in early 2016.

Mr. Tami reported the Land Surveyor TAC met the day before and discussed Board Rule 464, relating to Corner Records, and Board Rule 425, which is the experience requirements for licensure as a land surveyor. They also suggested revisions to the Guide for City and County Officials.

**XI. President’s Report/Board Member Activities**

No Report Given.

**XII. Approval of Consent Items**

(These items are before the Board for consent and will be approved with a single motion. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

A. Approval of the Minutes of the September 10, 2015, Board Meeting

<b>MOTION:</b>	Vice-President King and Ms. Jones Irish moved to approve the September minutes.
<b>VOTE:</b>	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Robert Stockton	X				
Coby King	X				
Natalie Alavi	X				
Asha Brooks	X				
Chelsea Esquibias	X				
Eric Johnson				X	
Kathy Jones Irish	X				
Betsy Mathieson				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts			X		
William Silva	X				
Patrick Tami	X				

**XIII. Other Items Not Requiring Board Action**

A. 2016 Board Meeting Schedule

The Board reviewed the proposed calendar and suggested changing the June meeting date from June 23-24 to June 9-10.

**XIV. Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to**

Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), 11126 (e)(1), and 11126(e)(2)(B)(i)]

A. Civil Litigation

1. Thomas Lutge v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, Court of Appeal, Third Appellate District, Case No. C075779 (Sacramento Superior Court Case No. 34-2012-80001329-CU-WM-GDS)
2. Joseph Elfelt v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, Sacramento Superior Court Case No. 34-2015-80002130

**XV. Open Session to Announce the Results of Closed Session**

During Closed session, the Board took action on five stipulations, three default decisions, one proposed decision, and discussed pending litigation as noticed.

**XVI. Adjourn**

Meeting adjourned at 5:19 p.m.

**PUBLIC PRESENT**

John Weber, USD CPIL  
Kenneth Rosenfield, ASCE  
Joe R. Silva, AIChE  
Art Sutton, CSPE  
Carl Josephson, SEAOC  
Stan Horwitz, CSPE  
Rob McMillan, CLSA  
Bill Hofferber, UNAVCO  
Bob DeWitt, ACEC  
Kerry Cato, Cato Geoscience Inc.



**DRAFT**

**MINUTES OF THE BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS**

**December 4, 2015, beginning at 9:00 a.m.  
at the following locations:**

Board for Professional Engineers, Land  
Surveyors, and Geologists  
2535 Capitol Oaks Drive, Suite 300  
Sacramento, California 95833

Division of State Architect  
San Diego Regional Office  
10920 Via Frontera, Ste. 300  
San Diego, California 92127

Division of State Architect  
Los Angeles Regional Office  
700 N. Alameda Street, Suite 5-500  
Los Angeles, California 90012

Department of General Services  
1515 Clay Street, 2<sup>nd</sup> Floor  
Oakland, California 94612

<b>Board Members Present:</b>	Robert Stockton, President; Coby King, Vice President; Fel Amistad; Asha Brooks; Betsy Mathieson; Mohammad Qureshi; Karen Roberts; Jerry Silva; and Patrick Tami
<b>Board Members Absent:</b>	Eric Johnson; Chelsea Esquibias; Kathy Jones Irish; Natalie Alavi; Hong Beom Rhee;
<b>Board Staff Present:</b>	Ric Moore (Executive Officer); Nancy Eissler (Assistant Executive Officer); Tiffany Criswell (Enforcement Manager); Celina Calderone (Board Liaison); Stanton Lee (Deputy Attorney General), and Michael Santiago (Legal Counsel)

**I. Roll Call to Establish a Quorum**

President Stockton called the meeting to order at 9:04 a.m., and a quorum was not established.

Mr. Silva arrived at 9:05 a.m., and a quorum was established.

**II. Public Comment**

During public comment, Craig Copelan representing PECG commented on proposed regulations. He received comments from PECG members in relation to the proposed regulation with a provision within Section 464 that would require a reference of identification of the related statute on the new Corner Record form. The comments received was they are surveyors and not good evaluators of the California Codes. The new form requires them to identify specific sections of the California Code and they do not carry a copy of the code with them. Ms. Eissler clarified that in order for comments to be considered as part of the official rulemaking file, they must be submitted in writing during the noticed public comment period or at the noticed public hearing on the proposal.

Abbas Rastandeh representing individuals who work for the City of San Diego advised that he was following up on a request made at the June 2015 Board meeting in reference to waiving the PE examination for applicants over the age of 55. After many attempts, they have not been successful in passing the examination which has caused hardship. They have concluded that they are at a disadvantage because they are placed with younger candidates with a better recollection. They are requesting approval from the Board to waive all examinations and grant them licensure.

**III. Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), 11126 (e)(1), and 11126(e)(2)(B)(i)]**

**A. Civil Litigation**

1. Joseph Elfelt v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, Sacramento Superior Court Case No. 34-2015-80002130

**IV. Other Business Not Requiring Board Action**

No report given.

**V. Open Session to Announce the Results of Closed Session**

Ms. Eissler announced that, during Closed Session, the Board discussed pending litigation as noticed.

**VI. Adjourn**

The meeting adjourned at 10:20 a.m.

**PUBLIC PRESENT**

Craig Copelan, PECG  
Abbas Rastandeh, City of San Diego

**XIII. Other Items Not Requiring Board Action**

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A. Updated 2016 Board Meeting Calendar



### January 2016

S	M	T	W	T	F	S
31					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

### February 2016

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29					

### March 2016

S	M	T	W	T	F	S
				1	2	3
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

### April 2016

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

### May 2016

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

### June 2016

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

### July 2016

S	M	T	W	T	F	S
31					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

### August 2016

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

### September 2016

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

### October 2016

S	M	T	W	T	F	S
30	31					1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

### November 2016

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

### December 2016

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

### Holidays

1/1	New Year's
1/18	M. L. King, Jr. Day
2/15	President's Day
3/31	Cesar Chavez Day
5/30	Memorial Day
7/4	Independence Day
9/5	Labor Day
11/11	Veteran's Day
11/24-11/25	Thanksgiving Break
12/26	Christmas

### Board Meeting Dates

January 14-15
March 3-4
April 21-22
June 9-10
August 18-19
October 13-14
December 8-9

### Key

BOARD MEETING	HOLIDAYS	MBA MTG
NCEES WZ	NCEES ANNUAL MTG	BOARD OF DIRECTORS



**XIV. Closed Session** – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), 11126 (e)(1), and 11126(e)(2)(B)(i)]

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A. Civil Litigation

1. Thomas Lutge v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, Court of Appeal, Third Appellate District, Case No. C075779 (Sacramento Superior Court Case No. 34-2012-80001329-CU-WM-GDS)
2. Joseph Elfelt v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, Sacramento Superior Court Case No. 34-2015-80002130





**XV. Open Session to Announce the Results of Closed Session**

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**XVI. Adjourn**

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