



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

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

March 3-4, 2016

Thursday, March 3, beginning at **10:00 a.m.**
and continuing on Friday, March 4,
beginning at **9:00 a.m.**, if necessary

Ventura County Government Center
800 S. Victoria Ave., Room 344
Ventura, CA 93009

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MEETING OF THE BOARD FOR PROFESSIONAL ENGINEERS,
LAND SURVEYORS, AND GEOLOGISTS

BOARD MEETING LOCATION

MARCH 3 4, 2016

Ventura County Government Center, 800 S. Victoria Avenue, Room #344 Ventura, CA 93009

Board Members: Robert Stockton, President; Coby King, Vice President; Natalie Alavi; Fel Amistad; Asha Brooks; Chelsea Esquibias; Eric Johnson; Kathy Jones Irish; Betsy Mathieson; Mohammad Qureshi; Hong Beom Rhee; Karen Roberts; Jerry Silva; and Patrick Tami

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I. Roll Call to Establish a Quorum

II. Public Comment

III. Letter Regarding Licensure of Engineering Faculty

III. Letter Regarding Licensure of Engineering Faculty (Possible Action)

The Board received a letter on January 20, 2016 from Dr. Howard Turner, Emeritus Professor for Cal Poly Pomona pertaining to his concerns associated with “...*a movement in the CSU engineering programs and specifically, in the Department of Civil Engineering at Cal Poly Pomona, to remove the requirement of licensure for tenure and advanced teaching.*” Dr. Turner believes that “...*this issue creates significant Health, Safety and Welfare concerns...*” and is inquiring on whether the Board is aware of this problem and taken any steps to abate this dilemma.

In his letter, Dr. Turner referenced the National Society of Professional Engineers (NSPE) Position Statement No. 1766 which encourages licensing jurisdictions to incorporate into their statutes the NCEES Model Law definition of the practice of engineering which requires engineering faculty who teach advanced engineering subject to be licensed professional engineers in the jurisdiction where they are practicing.

Staff Recommendation:

Send a letter to Cal Poly Pomona discussing the merits of licensure for those teaching advanced engineering subjects.



CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA

Civil Engineering
College of Engineering

January 17th 2016

Board Members,
Board for Professional Engineers, Land Surveyors, and Geologists
2535 Capitol Oaks Drive, Suite 300
Sacramento, CA 95833-2944.

Dear Board Members,

In January 2012, the National Society of Professional Engineers issued NSPE Position Statement No. 1766—Engineering Faculty Licensure outlining a position on licensing of engineering faculty. A copy of this document is attached. ABET criteria for civil engineering and surveying engineering accreditation have always required design courses be taught by faculty with appropriate work experience.

Numerous states have enacted laws to make teaching part of engineering practice. The attached document produced by the American Institute of Architects shows those which have enacted laws to regulate teaching. Currently, there are 17 jurisdictions, mostly states, which have done this. They are Alaska, Arkansas, DC, Florida, Guam, Idaho, Kansas, Kentucky, Missouri, Montana, North Dakota, Oklahoma, Pennsylvania, South Dakota, Texas, West Virginia and Wyoming.

In the Department of Civil Engineering at Cal Poly Pomona, registration as a civil or surveying engineer has been a requirement for tenure since the department began in 1964. Since the mandate of the CSU system is teaching, while that of the UC system is research, it has always made sense that tenured faculty in the CSU engineering programs should be licensed.

However, currently there is a movement in the CSU engineering programs and specifically, in the Department of Civil Engineering at Cal Poly Pomona, to remove the requirement of licensure for tenure and advanced teaching. This creates a significant safety issue. In a state where seismology is a critical issue because of earthquakes, it is questionable why young aspiring engineers would be taught, or want to be taught, by faculty who have a Ph.D. but no real world experience. Licensing in California insures that faculty have at least one year of vetted work experience.

I believe this issue creates significant Health, Safety and Welfare concerns, and I am enquiring if the Board is aware of this problem and has taken any steps to abate the dilemma.

Yours truly,

Howard Turner Ph.D., PLS, MRICS
Emeritus Professor, Cal Poly, Pomona

IV. Legislation

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.

Introduced Legislation

Senate Bill 1085 (Roth, D)

Laws and Regulations Renewal Examination

Status: Introduced 2/17/2016

Location: Desk

Last Amendment: N/A

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

Updated 2/22/16

Staff Analysis: SB 1085

Bill Summary: Existing law makes the Board responsible for the certification, licensure, and regulation of the practice of professional engineering, the practice of professional geologists and geophysicists, and the practice of professional land surveyors. This bill would additionally require an applicant for renewal to complete a specified board-administered examination. The bill would make the failure to complete the examination a cause for disciplinary action.

Staff Comment: This is Board sponsored legislation. This bill is needed to safeguard the public from unnecessary non-practice-related violations of the laws committed by Professional Engineers, Land Surveyors, Geologists, and Geophysicists. This bill would institute an examination relating to California laws and regulations under the Board's jurisdiction to reinforce licensees' knowledge of the relevant laws.

Board Position: None

Staff Recommendation: Board staff recommends the Board take a **support** position on the bill. Based on the Board's experience, licensees fail to adequately and independently stay up-to-date with critical legal and regulatory changes that directly affect the manner in which they provide services to and for the public.

Laws: An act to add Sections 6795.2, 7881.5, and 8801.1 to the Business and Professions Code, relating to professions and vocations.

Introduced by Senator Roth

February 17, 2016

An act to add Sections 6795.2, 7881.5, and 8801.1 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1085, as introduced, Roth. Professional engineers: geologists: land surveyors.

Existing law makes the Board for Professional Engineers, Land Surveyors, and Geologists responsible for the certification, licensure, and regulation of the practice of professional engineering, the practice of professional geologists and geophysicists, and the practice of professional land surveyors. Existing law subjects these certificates and licenses to renewal and requires the certificate holder or licenseholder to apply for renewal on a form prescribed by the board and pay a prescribed fee, as provided.

This bill would additionally require an applicant for renewal to complete a specified board-administered examination. The bill would make the failure to complete the examination a cause for disciplinary action.

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. Section 6795.2 is added to the Business and
- 2 Professions Code, to read:
- 3 6795.2. (a) At the time of renewal specified in Section 6795
- 4 or 6796, the certificate holder shall complete an examination that

1 includes questions to reinforce the certificate holder’s knowledge
 2 of state laws and the board’s rules and regulations relating to the
 3 practice of professional engineers. Failure to complete this
 4 examination shall constitute a cause for disciplinary action under
 5 Section 6775. The board shall administer the examination.

6 (b) The crime in subdivision (j) of Section 6787 shall not apply
 7 to this section.

8 SEC. 2. Section 7881.5 is added to the Business and Professions
 9 Code, to read:

10 7881.5. (a) At the time of renewal specified in Section 7880
 11 or 7881, the certificate holder shall complete an examination that
 12 includes questions to reinforce the certificate holder’s knowledge
 13 of state laws and the board’s rules and regulations relating to the
 14 practice of professional geologists and geophysicists. Failure to
 15 complete this examination shall constitute a cause for disciplinary
 16 action under Section 7860. The board shall administer the
 17 examination.

18 (b) The crime in subdivision (h) of Section 7872 shall not apply
 19 to this section.

20 SEC. 3. Section 8801.1 is added to the Business and Professions
 21 Code, to read:

22 8801.1. (a) At the time of renewal specified in Section 8801
 23 or 8802, the licenseholder shall complete an examination that
 24 includes questions to reinforce the certificate holder’s knowledge
 25 of state laws and the board’s rules and regulations regulating the
 26 practice of professional land surveyors. Failure to complete this
 27 examination shall constitute a cause for disciplinary action under
 28 Section 8780. The board shall administer the examination.

29 (b) The crime in subdivision (j) of Section 8792 shall not apply
 30 to this section.

O

Introduced Legislation

Senate Bill 1099 (Cannella, R)

Land surveyors

Status: Introduced 2/17/2016

Location: Desk.

Last Amendment: N/A

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

Updated 2/23/16

Staff Analysis: SB 1099

Bill Summary: The Professional Land Surveyors' Act establishes the Board for Professional Engineers, Land Surveyors, and Geologists within the Department of Consumer Affairs for the licensure and regulation of land surveyors and requires any person practicing, or offering to practice, land surveying in the state to submit evidence that he or she is qualified to practice and to be licensed under the act.

Staff Comment: This is currently a spot bill.

Board Position: None

Staff Recommendation: Board staff recommends the Board take a **Watch** position on this bill. The legislative intent of this bill has yet to be publicized. Staff considers it unsuitable to take a support or oppose position at this time.

Laws: An act to amend Section 8725 of the Business and Professions Code, relating to professions.

Introduced by Senator Cannella

February 17, 2016

An act to amend Section 8725 of the Business and Professions Code, relating to professions.

LEGISLATIVE COUNSEL'S DIGEST

SB 1099, as introduced, Cannella. Land surveyors.

The Professional Land Surveyors' Act establishes the Board for Professional Engineers, Land Surveyors, and Geologists within the Department of Consumer Affairs for the licensure and regulation of land surveyors and requires any person practicing, or offering to practice, land surveying in the state to submit evidence that he or she is qualified to practice and to be licensed under the act.

This bill would make a nonsubstantive change to this provision.

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

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

- 1 SECTION 1. Section 8725 of the Business and Professions
- 2 Code is amended to read:
- 3 8725. Any person practicing, or offering to practice, land
- 4 surveying in this state shall submit evidence that he or she is
- 5 qualified to practice and shall be licensed under this chapter .
- 6 It is unlawful for any person to practice, offer to practice, or
- 7 represent ~~himself or herself~~, *herself or himself*, as a land surveyor
- 8 in this state, or to set, reset, replace, or remove any survey
- 9 monument on land in which he or she has no legal interest, unless

- 1 he or she has been licensed or specifically exempted from licensing
- 2 under this chapter.

O

99

Introduced Legislation

Senate Bill 1165 (Cannella, R) **Sign/Seal and Delinquent Reinstatement**

Status: Introduced 2/18/2016

Location: Desk

Last Amendment: N/A

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

Updated 2/23/16
Staff Analysis: SB 1165

Bill Summary: Currently, the laws allow professional geologists and geophysicists to either sign or seal their documents. This bill would require professional geologists and geophysicists to both sign and seal (or stamp) their final work product documents to indicate their responsibility for them and to require professional geologists and geophysicists to obtain a seal (or stamp). This bill would also extend the delinquent reinstatement rights to a licensee from 3-years to 5-years after expiration of their license. The bill would generally prohibit the renewal, restoration, reinstatement, or reissuance of these licenses after this time.

Staff Comment: This is Board sponsored legislation. This Bill would provide for more uniformity among the Board's licensing laws. The Board anticipates the increased uniformity of our laws will assist licensees and consumers with improved comprehension of our acts.

Board Position: None

Staff Recommendation: Board staff recommends the Board take a **support** position on the bill. This bill would provide for consistent operations among the Board's licensing programs and improve the provisions needed to safeguard the consumers of California.

Laws: An act to amend Sections 6796, 6796.3, 6796.5, 7835, 7835.1, 7852, 7852.1, 7884, 8802, 8803, and 8803.1 of the Business and Professions Code, relating to professions.

Introduced by Senator CannellaFebruary 18, 2016

An act to amend Sections 6796, 6796.3, 6796.5, 7835, 7835.1, 7852, 7852.1, 7884, 8802, 8803, and 8803.1 of the Business and Professions Code, relating to professions.

LEGISLATIVE COUNSEL'S DIGEST

SB 1165, as introduced, Cannella. Engineers, geologists, geophysicists, and land surveyors.

The Board for Professional Engineers, Land Surveyors, and Geologists administers the Professional Engineers Act, the Geologist and Geophysicist Act, and the Professional Land Surveyors' Act, each of which defines and regulates their respective professions.

The Professional Engineers Act generally permits certificates of registration as a professional engineer and certificates of authority, which authorize the use of specific titles, to be renewed at any time within 3 years after expiration. The act prohibits the renewal, restoration, reinstatement, or reissuance of these certificates unless the applicant meets certain requirements.

This bill would extend the 3-year period to 5 years after expiration. The bill would generally prohibit the renewal, restoration, reinstatement, or reissuance of these certificates after this time. The bill would authorize the holder of a certificate after that time to apply and obtain a new certificate if he or she has not committed acts or crimes that are grounds for denial and he or she passes an examination, if required. The bill would also make other technical and conforming changes.

Existing law prescribes requirements for plans, specifications, reports, or other documents prepared by a professional geologist or geophysicist, or by a subordinate, including a requirement that they be signed or

stamped with the practitioner's seal. Existing law authorizes geologists, specialty geologists, geophysicists, and specialty geophysicists to obtain a seal that meets specified requirements.

This bill would require the plans, specifications, reports, and other documents prepared by geologists or geophysicists, or their subordinates, to be both signed and stamped. The bill would instead require geologists, specialty geologists, geophysicists, and specialty geophysicists to obtain a seal. The bill would revise references relating to registration to instead refer to licensure.

The Professional Land Surveyors Act generally permits licensees to be renewed at any time within 3 years after expiration. The act prohibits the renewal, restoration, reinstatement, or reissuance of these licenses unless the applicant meets certain requirements.

This bill would extend the period within which a renewal may be made to 5 years after expiration. The bill would generally prohibit the renewal, restoration, reinstatement, or reissuance of these certificates after this time. The bill would authorize the holder of a license after that time to apply and obtain a new license if he or she has not committed acts or crimes that are grounds for denial and he or she passes an examination, if required. This bill would also make other technical and conforming changes.

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. Section 6796 of the Business and Professions
2 Code is amended to read:
3 6796. Except as otherwise provided in this article, certificates
4 of registration as a professional ~~engineer~~, *engineer* and certificates
5 of authority may be renewed at any time within ~~three~~ *five* years
6 after expiration on filing of application for renewal on a form
7 prescribed by the board and payment of all accrued and unpaid
8 renewal fees. If the certificate is renewed more than 60 days after
9 its expiration, the certificate holder, as a condition precedent to
10 renewal, shall also pay the delinquency fee prescribed by this
11 chapter. Renewal under this section shall be effective on the date
12 on which the application is filed, on the date on which the renewal
13 fee is paid, or on the date on which the delinquency fee, if any, is
14 paid, whichever last occurs.

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

3 SEC. 2. Section 6796.3 of the Business and Professions Code
4 is amended to read:

5 6796.3. (a) Certificates of registration as a professional
6 engineer, and certificates of authority to use the title “structural
7 engineer,” “soil engineer,” or “consulting engineer” that are not
8 renewed within ~~three~~ *five* years after expiration may not be
9 renewed, restored, reinstated, or ~~reissued unless all of the following~~
10 ~~apply: reissued. After five years after expiration, the holder of a~~
11 ~~certificate may apply for and obtain a new certificate subject to~~
12 ~~the following:~~

13 ~~(a) The registrant or certificate holder has~~
14 ~~(1) He or she has not committed any acts or crimes constituting~~
15 ~~grounds for denial of registration or of a certificate licensure under~~
16 ~~Section 480.~~

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

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

32 ~~The~~
33 ~~(b) The board may, by regulation, provide for the waiver or~~
34 ~~refund of all or any part of the application fee in those cases in~~
35 ~~which a certificate is issued without an examination pursuant to~~
36 ~~this section.~~

37 SEC. 3. Section 6796.5 of the Business and Professions Code
38 is amended to read:

39 6796.5. Once an expired or delinquent certificate of registration
40 or certificate of authority is ~~renewed, restored, reinstated, or~~

1 ~~reissued~~ *renewed* pursuant to Section ~~6796 or 6796.3~~, 6796, all
 2 the following shall apply:

3 (a) The board shall continue to have full jurisdiction and
 4 authority over the registrant or certificate holder as if the
 5 registration or authority had not expired or become delinquent.

6 (b) The work performed by the registrant or certificate holder
 7 during a period of expiration or delinquency shall be deemed lawful
 8 and validly performed as to persons or entities other than the
 9 registrant or authority holder.

10 (c) ~~The renewal, restoration, reinstatement, or reissuance~~
 11 *renewal* of a registration or certificate of authority shall not affect
 12 liability issues regarding work performed during a period of
 13 expiration or delinquency, nor does the fact of performance during
 14 a period of expiration ~~on~~ or delinquency affect liability issues.

15 SEC. 4. Section 7835 of the Business and Professions Code is
 16 amended to read:

17 7835. All geologic plans, specifications, reports, or documents
 18 shall be prepared by a professional geologist or ~~registered~~ *licensed*
 19 certified specialty geologist, or by a subordinate employee under
 20 his or her direction. In addition, they shall be signed by the
 21 professional geologist or ~~registered~~ *licensed* certified specialty
 22 geologist ~~or~~ and stamped with his or her seal, ~~either~~ *both* of which
 23 shall indicate his or her responsibility for them.

24 SEC. 5. Section 7835.1 of the Business and Professions Code
 25 is amended to read:

26 7835.1. All geophysical plans, specifications, reports, or
 27 documents shall be prepared by a professional geophysicist,
 28 ~~registered~~ *licensed* certified specialty geophysicist, professional
 29 geologist, ~~registered~~ *licensed* certified specialty geologist, or by a
 30 subordinate employee under his or her direction. In addition, they
 31 shall be signed by the professional geophysicist, ~~registered~~ *licensed*
 32 certified specialty geophysicist, professional geologist, or ~~registered~~
 33 *licensed* certified specialty geologist, ~~or~~ and stamped with his or
 34 her seal, ~~either~~ *both* of which shall indicate his or her responsibility
 35 for them.

36 SEC. 6. Section 7852 of the Business and Professions Code is
 37 amended to read:

38 7852. (a) Each geologist ~~registered~~ *licensed* under this chapter
 39 ~~may, upon registration,~~ *shall, upon licensure,* obtain a seal of the
 40 design authorized by the board bearing the ~~registrant's~~ *licensee's*

1 name, number of his or her certificate, and the legend “professional
2 geologist.”

3 (b) Each specialty geologist certified under this chapter ~~may~~,
4 *shall*, upon certification, obtain a seal of the design authorized by
5 the board bearing the ~~registrant’s licensee’s~~ name, number of his
6 or her certificate, and the legend of the appropriate specialty in
7 geology in which he or she is certified under this chapter .

8 SEC. 7. Section 7852.1 of the Business and Professions Code
9 is amended to read:

10 7852.1. (a) Each geophysicist ~~registered~~ *licensed* under this
11 chapter ~~may, upon registration,~~ *shall, upon licensure,* obtain a seal
12 of the design authorized by the board bearing the ~~registrant’s~~
13 *licensee’s* name, number of his or her certificate, and the legend
14 “professional geophysicist.”

15 (b) Each specialty geophysicist certified under this chapter ~~may~~,
16 *shall*, upon certification, obtain a seal of the design authorized by
17 the board bearing the ~~registrant’s licensee’s~~ name, number of his
18 or her certificate, and the legend of the appropriate specialty in
19 geophysics in which he or she is certified under this chapter .

20 SEC. 8. Section 7884 of the Business and Professions Code is
21 amended to read:

22 7884. Certificates of ~~registration~~ *licensure* as a geologist or as
23 a geophysicist or certified specialty certificates which are not
24 renewed within five years after expiration may not be renewed,
25 restored, reinstated, or reissued thereafter. The holder of ~~such that~~
26 certificate may apply for and obtain a new certificate, however,
27 if:

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

30 (b) He *or she* takes and passes the examination, if any, which
31 would be required of him *or her* if he *or she* were then applying
32 for the certificate for the first time.

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

37 SEC. 9. Section 8802 of the Business and Professions Code is
38 amended to read:

39 8802. Except as otherwise provided in this article, licenses
40 issued under this chapter may be renewed at any time within ~~three~~

1 *five* years after expiration on filing of application for renewal on
 2 a form prescribed by the board and payment of all accrued and
 3 unpaid renewal fees. If the license is renewed more than 30 days
 4 after its expiration, the licensee, as a condition precedent to
 5 renewal, shall also pay the delinquency fee prescribed by this
 6 chapter. Renewal under this section shall be effective on the date
 7 on which the application is filed, on the date on which the renewal
 8 fee is paid, or on the date on which the delinquency fee, if any, is
 9 paid, whichever last occurs. If so renewed, the license shall
 10 continue in effect through the date provided in Section 8801 which
 11 next occurs after the effective date of the renewal, when it shall
 12 expire if it is not again renewed.

13 SEC. 10. Section 8803 of the Business and Professions Code
 14 is amended to read:

15 8803. *(a) A license which that is not renewed within three*
 16 *five* years after its expiration may not be renewed, restored,
 17 reissued, or reinstated thereafter, unless all of the following apply:
 18 *reinstated. After five years after expiration, the holder of a license*
 19 *may apply for and obtain a new license subject to the following:*

20 ~~(a) The licensee~~

21 *(1) He or she has not committed any acts or crimes constituting*
 22 *grounds for denial of licensure under Section 480.*

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

29 ~~(c) The licensee~~

30 *(2) He or she takes and passes the examination which*
 31 *examination, if any, that would be required if applying for the*
 32 *license for the first time, or otherwise establishes to the satisfaction*
 33 *of the board that, with due regard for the public interest, the*
 34 *licensee is qualified to engage in the practice of land surveying.*
 35 *time.*

36 ~~The~~

37 *(b) The board may, by appropriate regulation, authorize provide*
 38 *for the waiver or refund of all or any part of the application fee in*
 39 *those cases in which a license is issued without an examination*
 40 *under pursuant to this section.*

1 SEC. 11. Section 8803.1 of the Business and Professions Code
2 is amended to read:

3 8803.1. Once an expired or delinquent license is ~~renewed,~~
4 ~~restored, reinstated, or reissued~~ *renewed* pursuant to Section ~~8803,~~
5 ~~8802~~, all of the following apply:

6 (a) The board shall continue to have full jurisdiction and
7 authority over the licensee as if the license had not expired or
8 become delinquent.

9 (b) The work performed by the licensee during a period of
10 expiration or delinquency shall be deemed lawful and validly
11 performed as to persons or entities other than the licensee.

12 (c) The ~~renewal, restoration, reinstatement, or reissuance~~
13 *renewal* of a license shall not affect liability issues regarding work
14 performed during a period of expiration or delinquency, nor does
15 the fact of performance during a period of expiration or
16 delinquency affect liability issues.

O

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 2/23/16

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 8th, 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

Introduced by Assembly Member Wood

February 13, 2015

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.

O

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 2/23/16

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

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

December 1, 2014

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.

O

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 2/23/16

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

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

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.

O

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 2/23/16

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

Introduced by Senator Pavley

February 11, 2015

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 classifie
 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 floo
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 Resources 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 financial
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 financial
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 any 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 financial
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 (e), and 45 days from the date of receipt of financial~~
23 ~~assurances submitted pursuant to subdivision (e), 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

V. Consideration of Rulemaking Proposals

V. A. Consideration of Rulemaking Proposals – Request for Waiver of Examinations Pursuant to Business and Professions Code section 6755(d) (Possible Action)

At the December 4, 2015 Board meeting held by teleconference, the Board heard, during Public Comment, a request for the Board to waive the second division civil engineering examinations for those individuals who are 55 or older. The individual stated that it was very difficult for him (and several other co-workers) to complete the examinations in the allotted time, and due to their many years of experience they were currently performing in an administrative role rather than a technical or design role as they did earlier in their career.

Staff Comments:

6755(d) reads:

The board may by rule provide for a waiver of the second division of the examination for persons eminently qualified for registration in this state by virtue of their standing in the engineering community, their years of experience, and those other qualifications as the board deems appropriate.

At this time, the Board does not have a regulation (“rule”) in place “to provide for a waiver of the second division of the examination.” Therefore, the Board does not have the legal authority to grant this request and waive the examination.

The Board would need to decide if they would like to pursue the rulemaking process for the implementation of regulations in order to grant this request.

**Approval and/or Adoption of Proposed Amendments to
Title 16, California Code of Regulations section 464 (Corner Records)**

Proposed amendments to Board Rule 464 regarding the preparation and filing of corner records were noticed for a 45-day public comment period on November 13, 2015. A public hearing was held on January 5, 2016.

The comments received are included in the Board Meeting materials. The following is a summary of comments received, as well as the proposed response:

Comment (1) – Letter dated December 28, 2015, from Professional Engineers in California Government (PECG):

PECG reported that their members, in general, responded favorably to the proposed changes but provided concerns with the requirement that Surveyors will need to reference the specific code section that relates to the information that they will provide on the Corner Record form. PECG and their Land Surveyor members feel this is an unnecessary addition, would delay the approval and processing of the submitted Corner Records, and is an unnecessary burden on the submitting Land Surveyor.

Response to Comment (1):

The Board rejects this comment. The Board believes it is incumbent upon the Licensed Land Surveyor performing the survey to understand their responsibility and duty pertaining to fully recognizing the statutory requirement(s) for the preparation and filing of a Corner Record in accordance with the Professional Land Surveyors' Act and the Board Rules. We believe that indicating on the Corner Record form the section of law under which the Corner Record is being filed will decrease the amount of time required for review and approval by the filing agency as it will make clear the specific requirements and provisions of law that are applicable to that Corner Record.

Comment (2) – Email Message, dated December 4, 2015, with attachment from California Department of Transportation (Caltrans) and comments made at the hearing:

Caltrans suggested amendments to Page 1 of 2 of the proposed Corner Record form related to the use of appropriate designations relating to the optional use of California Coordinate System coordinates.

Response to Comment (2):

The Board accepts the implied intent of these comments, which is to make it clear on the form that the reference is specifically to the California Coordinate System (CCS) and to use terminology appropriate to the CCS. We have made changes to Page 1 of 2 for clarification.

Letter, dated December 28, 2015, from the California Land Surveyors Association:

The California Land Surveyors Association (CLSA) submitted a letter in which they provided one comment from CLSA's Legislative Committee and seven additional comments from unidentified individual members of CLSA's Legislative Committee. These comments are listed separately as Comment (3) through Comment (10).

Comment (3):

CLSA forwarded comment from its Legislative Committee related to inclusion of the language referencing Business and Professions section 8764 stating that the additional language directly referencing Section 8764 does not serve the purpose of interpreting statute more clearly because Section 8764 pertains to information to be included on a Record of Survey, not a Corner Record. They suggested that the Board remove the reference to Section 8764 and replace it with language that specifically relates to Corner Records.

Response to Comment (3):

The Board rejects this comment. Section 8765(d) provides an exemption from the requirement to file a Record of Survey as long as a Corner Record is filed. Section 8764 identifies information that, when applicable, needs to be shown on a Record of Survey to allow sufficient understanding of a monument's pedigree. It is appropriate that the applicable provisions of Section 8764 would be shown on the map that can be filed in lieu of a Record of Survey (i.e., a Corner Record). Just as the statute uses the phrase "applicable provisions" to allow the preparer to determine which information applies and must be included on a Record of Survey, the Board is using the same phrase for the same reason in Board Rule 464 regarding the preparation and filing of a Corner Record.

Comment (4):

Unknown Individual Member of CLSA: An unknown member of CLSA's Legislative Committee asked for an explanation of what the Agency Index Number is as proposed on the new Corner Record form and questioned if it was the same as the County Surveyor Index Number.

Response to Comment (4):

Since the origins of the Corner Record form, county agencies have included various methods of identification, using a variety of names, on the form to help "index" the filed forms in their offices in spite of state law stating that no changes could be made to the form. The Board is aware of this trend and understands the agency's need to be able to include an identification for the purposes of indexing; however, we also know that County Surveyors' Offices throughout the state are organized managerially in different configurations and use different terminology, such as "County Surveyor Index Number." Therefore, we chose to add a generic location using generic terminology for the County Surveyor to use for this purpose and to standardize the usage across California.

Comment (5):

Unknown Individual Member of CLSA: An unknown member of CLSA’s Legislative Committee requested changing the title of the form from “Corner Record” to “Monument Record.”

Response to Comment (5):

The Board rejects this comment. The requested change would require legislative revision as the term “Corner Record” is used throughout the Professional Land Surveyors’ Act in addition to other statutory codes.

Comment (6):

Unknown Individual Member of CLSA: An unknown member of CLSA’s Legislative Committee requested the removal of the word “brief” from the proposed language under Board Rule 464(a)(2), which is currently proposed to read: “A brief legal description....”

Response to Comment (6):

The Board rejects this comment. The noted language was proposed by the Board to replace “An identification...” in the current Corner Record form due to inconsistent use by licensed land surveyors as to what exactly was required in this section of the form, which in many cases resulted in inadequate or no entry on the form for this information. The Board believes that the term “legal description” is commonly used to describe the location of property boundaries within a legal document (i.e., Grant Deed, etc.) and by using the word “brief,” the land surveyor is clearly only required to use language such as would normally be found in the preamble of a legal description on the form as a general identification of the property where the survey was performed.

Comment (7):

Unknown Individual Member of CLSA: An unknown member of CLSA’s Legislative Committee requested the addition of “...or sectionalized Rancho,...” to the proposed language under Board Rule 464(a)(2), which is currently proposed to read: “...of the township, range, base, and meridian or the Rancho, in which the corner is located....”

Response to Comment (7):

The Board rejects this comment. The Board believes this requested language is not applicable or necessary and believes that the individual completing the form can simply use the “Other” choice under CORNER TYPE on the form when conditions may exist that are other than what is listed.

Comment (8):

Unknown Individual Member of CLSA: An unknown member of CLSA’s Legislative Committee requested that proposed language under Board Rule 464(a)(5)(A) be revised to standardize with language currently in use to describe the condition of noted monuments on the form.

Response to Comment (8):

The Board accepts this comment and has revised the proposed language and form to be consistent with other language currently in use in statute and regulation.

Comment (9):

Unknown Individual Member of CLSA: An unknown member of CLSA's Legislative Committee asked why the last sentence of current Board Rule 464(a)(6) [proposed to be Board Rule 464(a)(9)] was being removed.

Response to Comment (9):

Insofar as this comment might be interpreted as a suggestion that the language should not be removed from the regulation, the Board accepts the comment. However, we believe the sentence should be in a separate subdivision to provide clarification that it pertains to all corners other than Public Land Corners for which a corner record is required by Section 8773(a). Therefore, we have created a new subdivision [(a)(10)] and rephrased the sentence.

Comment (10)

Unknown Individual Member of CLSA: An unknown member of CLSA's Legislative Committee asked why the language currently stated in Board Rule 464(e) was being removed.

Response to Comment (10)

Insofar as this comment might be interpreted as a suggestion that the language should not be removed, the Board rejects the comment. The language proposed to be removed from the current Board Rule 464(e) predated the addition of Section 8765(d) to the Professional Land Surveyors' Act. The first sentence of the current subdivision (e) is contained in Section 8765(d); therefore, it is unnecessary and duplicative to include it in regulation. The second sentence of the current subdivision (e) is proposed to be included in the new subdivisions (e) and (f); as such, it is not being removed from the regulation.

Procedural Information:

In response to the comments, modifications have been made to the text and form as originally noticed. These modifications require a 15-day noticed public comment period, during which time interested parties may submit written comments on only the proposed modifications. If any comments are received, they would be presented to the Board for consideration of whether further modifications should be made. If no comments are received or the comments do not warrant further changes, the final language would then be presented to the Board for adoption. At this time, staff requests that the Board approve the modifications shown in the text and form and direct staff to issue the 15-day notice for public comment.

Modified Text & Form

Included is the modified text and the modified form. The modifications in the text are shown in double underlined text for additions and ~~double strikethrough text~~ for deletions. (The original noticed changes are shown in single underlined text and ~~single strikethrough text~~.) A new form was created and noticed during the original public comment period. For consistency, the modifications to it are also shown in double underlined text for additions and ~~double strikethrough text~~ for deletions.

RECOMMENDED MOTION:

The Board approves the modified text and directs staff to issue a 15-day notice regarding the modified text for changes to Title 16, CCR Section 464.



PROFESSIONAL ENGINEERS



IN CALIFORNIA GOVERNMENT

December 28, 2015

Submitted Via E-mail

Board for Professional Engineers, Land Surveyors and Geologists
Attention: Billie Baldo
2535 Capitol Oaks Drive, Suite 300
Sacramento, CA 95833

Re: Proposed Amendments to Section 464 of Title 16 of the California Code of Regulations - Corner Record

Members of the Board for Professional Engineers, Land Surveyors and Geologists,

Professional Engineers in California Government represents more than 13,000 Engineers, Land Surveyors, Engineering Geologists, and related professionals working for the State of California. PECG submits these comments in response to the Notice of Proposed Rulemaking seeking to amend Title 16, California Code of Regulations, Division 5, Section 464 (Corner Record).

The Board's proposed modifications to the methods for preparing and filing Corner Records were shared with a sample of our Land Surveyor members for their review and comment since this proposed update could affect their professional work. The response has been, in general, favorable with the opinion that the proposed changes will make the work for Corner Recording more effective.

There were concerns noted with the requirement that Surveyors will need to reference the specific code section that relates to the information that they provide on the Corner Record form. PECG and our Land Surveyor members feel that this is an unnecessary addition to the form and that it would further delay the approval and processing of the Corner Records. We therefore recommend that the portion of the update which would require that surveying practitioners identify the specific section of the Land Surveyors' Act that corresponds to the Corner Record be deleted as it is a new and unnecessary burden that might further delay the processing of corner records.

Thank you for considering our organization's comments on this proposed regulatory change.

Sincerely,

Mark Sheahan
PECG President

HEADQUARTERS:455 Capitol Mall, Suite 501, Sacramento, CA 95814 • (916) 446-0400
LOS ANGELES:215 N. Marengo Avenue, Suite 185, Pasadena, CA 91101 • (818) 500-9941
SAN FRANCISCO:100 Pine Street, Suite 750, San Francisco, CA 94111 • (415) 861-5720

Moore, Ric@DCA

From: Hao, Yusu@DOT
Sent: Friday, December 04, 2015 8:03 AM
To: Baldo, Billie@DCA
Cc: Sykes, Heidi G@DOT; Moore, Ric@DCA; Turner, Mark S@DOT
Subject: FW: Rulemaking Proposal
Attachments: 464_proposed_corner_record OLS.pdf

Hi Ms. Baldo,

Caltrans would like to submit our suggestions to the proposal to amend Section 464 of Title 16 of the California Code of Regulations relating to updating language regarding the Corner Record. Please find our suggested edits/additions shown in red in the attached file.

Should you have any questions please contact me. Thanks.

Steve Hao
Senior Transportation Engineer
Professional Development Manager
Division of Design
(916) 653-4370

-----Original Message-----

From: Professional Engineers and Land Surveyors mailing list [<mailto:PELS-GENERAL@DCALISTS.CA.GOV>] On Behalf Of BPELSG Webmaster
Sent: Monday, November 16, 2015 3:43 PM
To: PELS-GENERAL@DCALISTS.CA.GOV
Subject: Rulemaking Proposal

The Board for Professional Engineers, Land Surveyors and Geologists has submitted a rulemaking proposal to amend Section 464 of Title 16 of the California Code of Regulations relating to updating language regarding the Corner Record. In addition, this proposal makes other changes as a result of legislation. The Notice will be published in the California Regulatory Notice Register on November 13, 2015 (Register 2015, No. Z-2015-1029-01). All information pertaining to the rule making file can be found below.

http://www.bpelsg.ca.gov/about_us/rulemaking.shtml

To unsubscribe from this email list please click on the link below and follow the instructions on the web page.

<https://www.dca.ca.gov/webapps/pels/subscribe.php>

CORNER RECORD

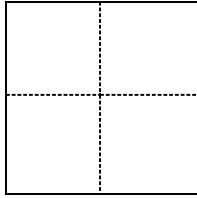
Agency Index _____

Document Number _____

City of _____

County of _____, California

Brief Legal Description _____



CORNER TYPE

- | | | | |
|-------------------|--------------------------|----------|--------------------------|
| Government Corner | <input type="checkbox"/> | Control | <input type="checkbox"/> |
| Meander | <input type="checkbox"/> | Property | <input type="checkbox"/> |
| Rancho | <input type="checkbox"/> | Other | <input type="checkbox"/> |

Date of Survey _____

COORDINATES (Optional)

N. _____

E. _____

Zone _____ CCS NAD27 CCS NAD83

NAD83 Datum Tag _____

NAD83 Epoch _____

Elev. _____

Vert. Datum: NGVD29 NAVD88

Meas. Units: Metric US Customary

PLS Act Ref.: 8765(d) 8771(b) 8773 **Other:** _____

Corner/ Monument:	<input type="checkbox"/> Left as found	<input type="checkbox"/> Established	<input type="checkbox"/> Rebuilt	<input type="checkbox"/> Pre-Construction
	<input type="checkbox"/> Found and tagged	<input type="checkbox"/> Reestablished	<input type="checkbox"/> Referenced	<input type="checkbox"/> Post-Construction

Narrative of corner identified and monument as found and set or reset:

See sheet #2 for description(s):

SURVEYOR'S STATEMENT

This Corner Record was prepared by me or under my direction in conformance with the Professional Land Surveyors' Act on _____.

Signed _____ P.L.S. or R.C.E. No. _____

COUNTY SURVEYOR'S STATEMENT

This Corner Record was received _____ and examined and filed _____.

Signed _____ P.L.S. or R.C.E. No. _____

Title _____

County Surveyor's Comment _____

Document Number	Agency Index
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CALIFORNIA LAND SURVEYORS ASSOCIATION

2520 Venture Oaks Way, Suite 150
Sacramento, CA 95833
916-239-4083
clsa@californiasurveyors.org

December 28, 2015

sent via email

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East Los Angeles College
Santiago Canyon College

Billie Baldo
Board for Professional Engineers, Land Surveyors, and Geologists (BPELSG)
2535 Capitol Oaks Drive, Suite 300
Sacramento, CA 95833

Ms. Baldo:

Please note and enter into the record for consideration the following request from CLSA's Legislative Committee regarding the BPELSG rulemaking proposal to amend Section 464 of Title 16 of the California Code of Regulations relating to updating language regarding the Corner Record:

1. Remove reference to B&P Code Section 8764 from Board Rule 464 and replace with specific language of information which should be shown on a corner record, applicable to the circumstances. 8764 is specific to the content of a Record of Survey and has provisions which are never applicable to a Corner Record. Direct reference to 8764 also does not serve the purpose of interpreting statute more clearly.

Additionally, please consider the following comments from individual members of the Legislative Committee regarding the same rulemaking proposal:

1. We would like an explanation of what an Agency Index Number is. Is it the County Surveyor Index Number, since they are the office that files Corner Records?
2. Consider changing Corner Record to a "Monument Record"
3. 464(a)(2):
 - o ~~An identification~~ A legal description (*omit brief*) of the township, range, base, and meridian or the Rancho in which the corner is located, if applicable.
4. Should 464(a)(2) be further expanded:
 - o ~~An identification~~ A brief legal description of the township, range, base, and meridian or the Rancho, *or sectionalized Rancho*, in which the corner is located, if applicable.

5. 464(a)(4)(5):
 - o Description of the physical condition (omit of), *kind, size, location and giving other data relating thereto of*
 - (A) the monument(s) as found and
 - (B) any ~~monuments~~ monument(s) (*replace set or reset*) found, set, reset, replaced or removed. (*comment: consistent with the existing law*)
6. Why was this text removed from 464(a)(6)(9)?
 - o ~~For other kinds of corners, a drawing shall be made which shows measurements that relate the corner to other identifiable monuments.~~
7. Why was 464(e) deleted? This section is key to interpreting 8762 when a record of survey is required. Especially the "different character clause" - it's not stated anywhere else. If the intent is to not survey property lines on a corner record, so state. "The corner record cannot be used to retrace lines shown....". Is this because it's already in the statute?

Thank you,



Jeff Burgess
Executive Director

464. Corner Record.

(a) ~~The corner record required by Section 8773 of the Code for the perpetuation of monuments provided for in Section 8773.1 of the Code shall contain the following information for consistent with each corner identified therein:~~

(1) The county and, if applicable, the city in which the corner is located.

(2) ~~An identification~~ A brief legal description of the township, range, base, and meridian or the Rancho in which the corner is located, if applicable.

(3) Identification of the corner type (~~example: e.g.,~~ government corner, control corner, property corner, etc.).

(4) Identification of the reference of the related statute (i.e., Section 8765(d), Section 8771, Section 8773, or other relevant sections of the Code).

~~(4)~~ (5) Description of the physical condition of

~~(A) the monument(s) as found and~~

~~(B) any monuments~~ monument(s) found, set, or reset, replaced, or removed.

~~(5)~~ (6) The date of the visit to the monument when the information for the corner record was obtained.

(7) For corners for which the corner record is filed in accordance with Section 8765(d) of the Code, the information shown on the corner record shall also show the applicable provisions of Section 8764 of the Code.

(8) For corners for which the corner record is filed in accordance with any subdivision of Section 8771 of the Code, the information shown on the corner record shall also show the applicable provisions of Section 8771 of the Code.

~~(6)~~ (9) For Public Land Corners for which a corner record is required by Section 8773(a) of the Code, a sketch shall be made showing site recovery information that was used for the corner. ~~For other kinds of corners, a drawing shall be made which shows measurements that relate the corner to other identifiable monuments.~~

(10) Except for those corners referenced in subdivision (9), a drawing shall be made which shows measurements that relate the corner to other identifiable monuments.

~~(7) A reference to the California Coordinate System is optional at the discretion of the preparer of the record.~~

~~(8)~~ ~~(10)~~ (11) The date of preparation of the corner record and, as prescribed by Section 8773.4 of the Code, the signature and title of the chief of the survey party if the corner record is prepared by a United States Government or a California State agency or the signature and seal of the land surveyor or civil engineer, as defined in Section 8731 of the Code, preparing the corner record.

(9) ~~(11)~~ (12) The date the corner record was filed and the signature of the county surveyor.

~~(10)~~ ~~(12)~~ (13) A document or filing number and/or Agency Index information.

(b) A reference to the California Coordinate System is optional at the discretion of the preparer of the record.

~~(b)~~ (c) A corner record shall be filed for each public land survey corner which is found, reset, or used as control in any survey by a land surveyor or a civil engineer. Exceptions to this rule are identified in Section 8773.4 of the Code.

~~(e)~~ (d) The corner record shall be filed within 90 days from the date a corner was found, set, reset, or used as control in any survey. The provisions for extending the time limit shall be the same as provided for a record of survey in Section 8762 of the Code.

~~(d)~~ (e) A corner record may be filed for any property corner, property controlling corner, reference monument, or accessory to a property corner, together with reference to record information. Such corner record may show one or more property corners, property controlling corners, reference monuments, or accessories to property corners.

(f) A corner record is limited to one single corner record document, in accordance with Section 8773.1 of the Code, and shall be so long as it is legible, clear, and understandable. A corner record may be submitted in an electronic medium if the county surveyor has a system to provide for the submittal, archiving, and distribution to the public in an electronic or hard copy format.

~~(e) When conducting a survey which is a retracement of lines shown on a subdivision map, official map, or a record of survey, where no material discrepancies with these records are found and where sufficient monumentation is found to establish the precise location of property corners thereon, a corner record may be filed in lieu of a record of survey for any property corners which are set or reset or found to be of a different character than indicated by prior records. Such corner records may show one or more property corners, property controlling corners, reference monuments or accessories to property corners on a single corner record document so long as it is legible, clear, and understandable.~~

~~(f)~~ (g) The standard markings and standard abbreviations used by the Bureau of Land Management (formerly the General Land Office) of the United States Department of the Interior shall be used in the corner record.

~~(g)~~ (h) The corner record shall be filed on a form prescribed by the Board. The approved form is ~~BORPELS-1297~~ BPELSG-20156.

CORNER RECORD

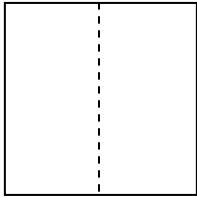
Agency Index _____

Document Number _____

City of _____

County of _____, California

Brief Legal Description _____



CORNER TYPE

Government Corner Control
 Meander Property
 Rancho Other

Date of Survey _____

CALIFORNIA COORDINATES (CCS) (Optional)

N. _____

E. _____

Zone _____ CCS27 CCS83
 NAD27 NAD83

NAD83 Epoch _____

Elev. _____

Vert. Datum: NGVD29 NAVD88

Meas. Units: Metric Imperial U.S.S.F.

PLS Act Ref.: 8765(d) 8771(b) 8773 Other:

Corner/Monument: Left as found Established Rebuilt Pre-Construction
 Found and tagged Reestablished Referenced Post-Construction

Narrative of corner identified and monument as found, ~~and set~~, or reset, replaced, or removed:

See sheet #2 for description(s):

SURVEYOR'S STATEMENT

This Corner Record was prepared by me or under my direction in conformance with

the Professional Land Surveyors' Act on _____, _____.

Signed _____ P.L.S. or R.C.E. No. _____

COUNTY SURVEYOR'S STATEMENT

This Corner Record was received _____, _____

and examined and filed _____, _____.

Signed _____ P.L.S. or R.C.E. No. _____

Title _____

County Surveyor's Comment _____

Document Number

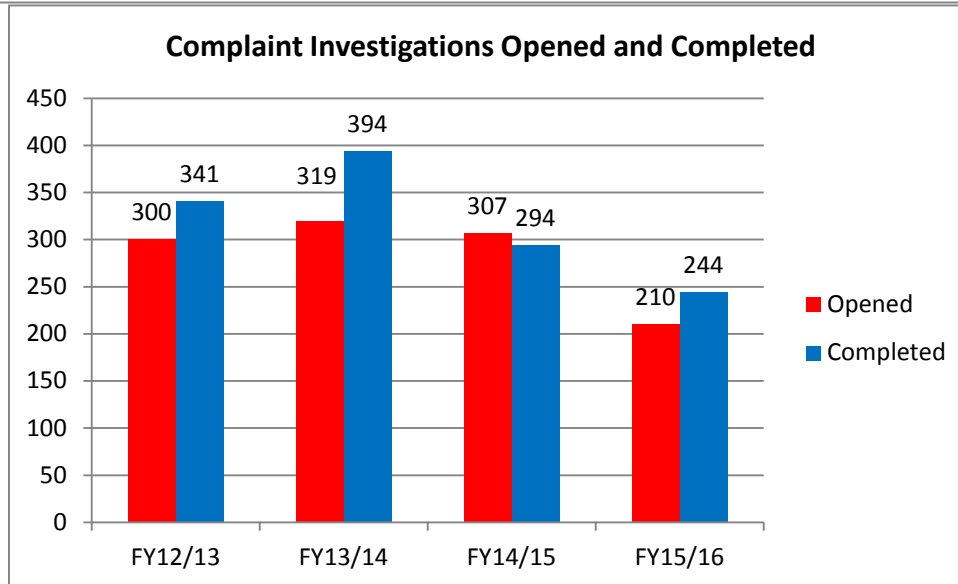
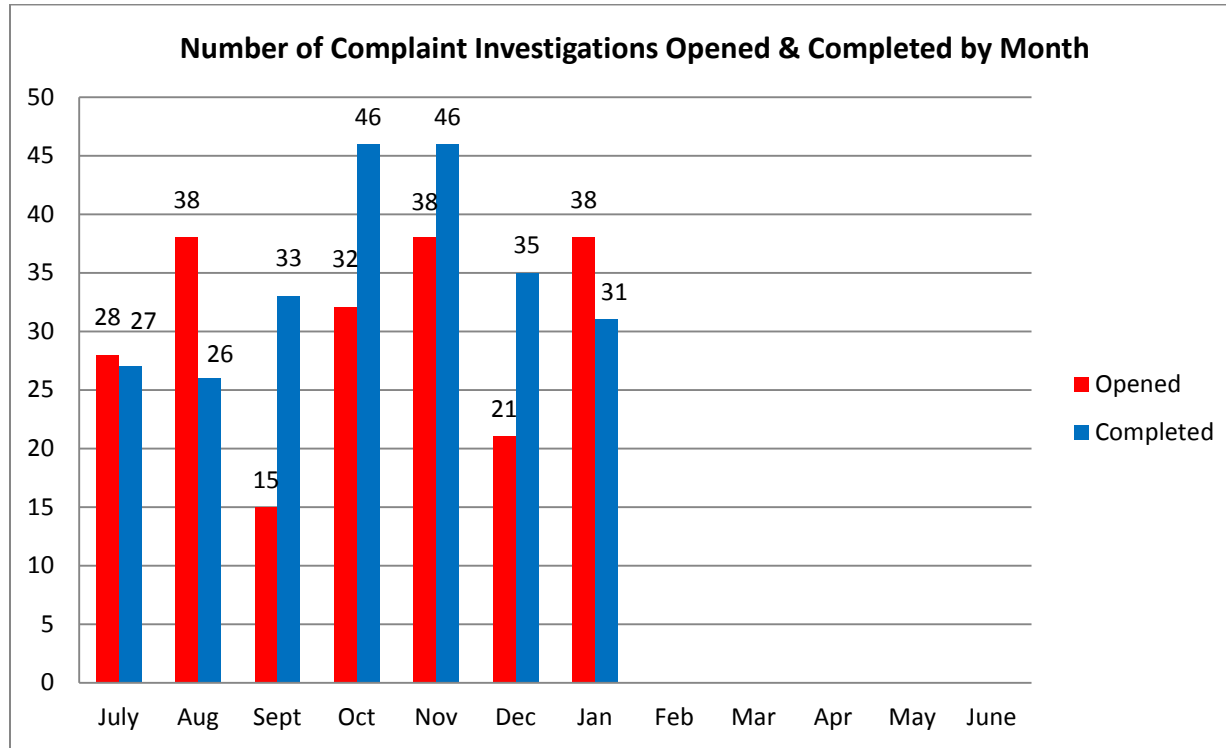
Agency Index

Document Number	Agency Index
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VI. Enforcement

PELS ENFORCEMENT PROGRAM

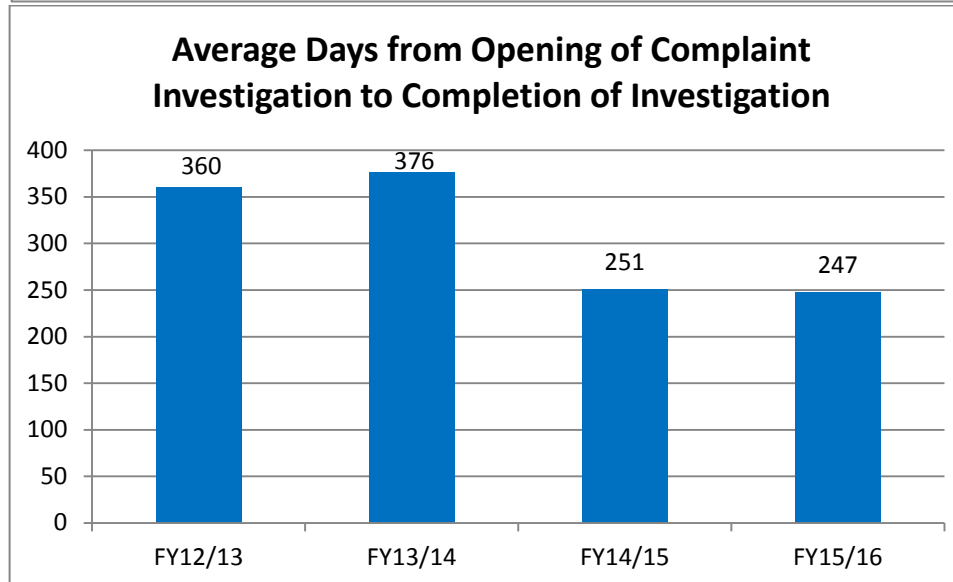
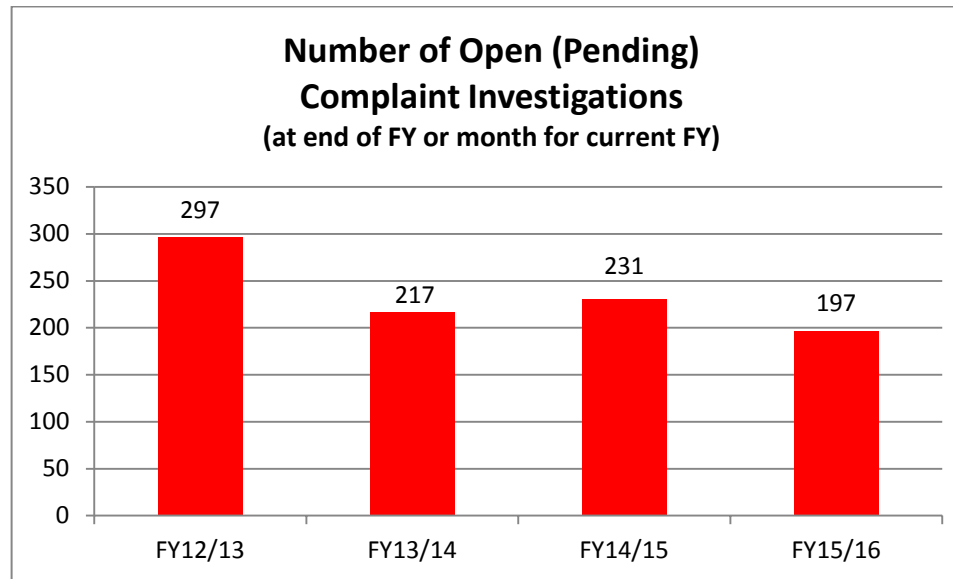
Complaint Investigation Phase



NOTE: FY15/16 statistics are through January 31, 2016

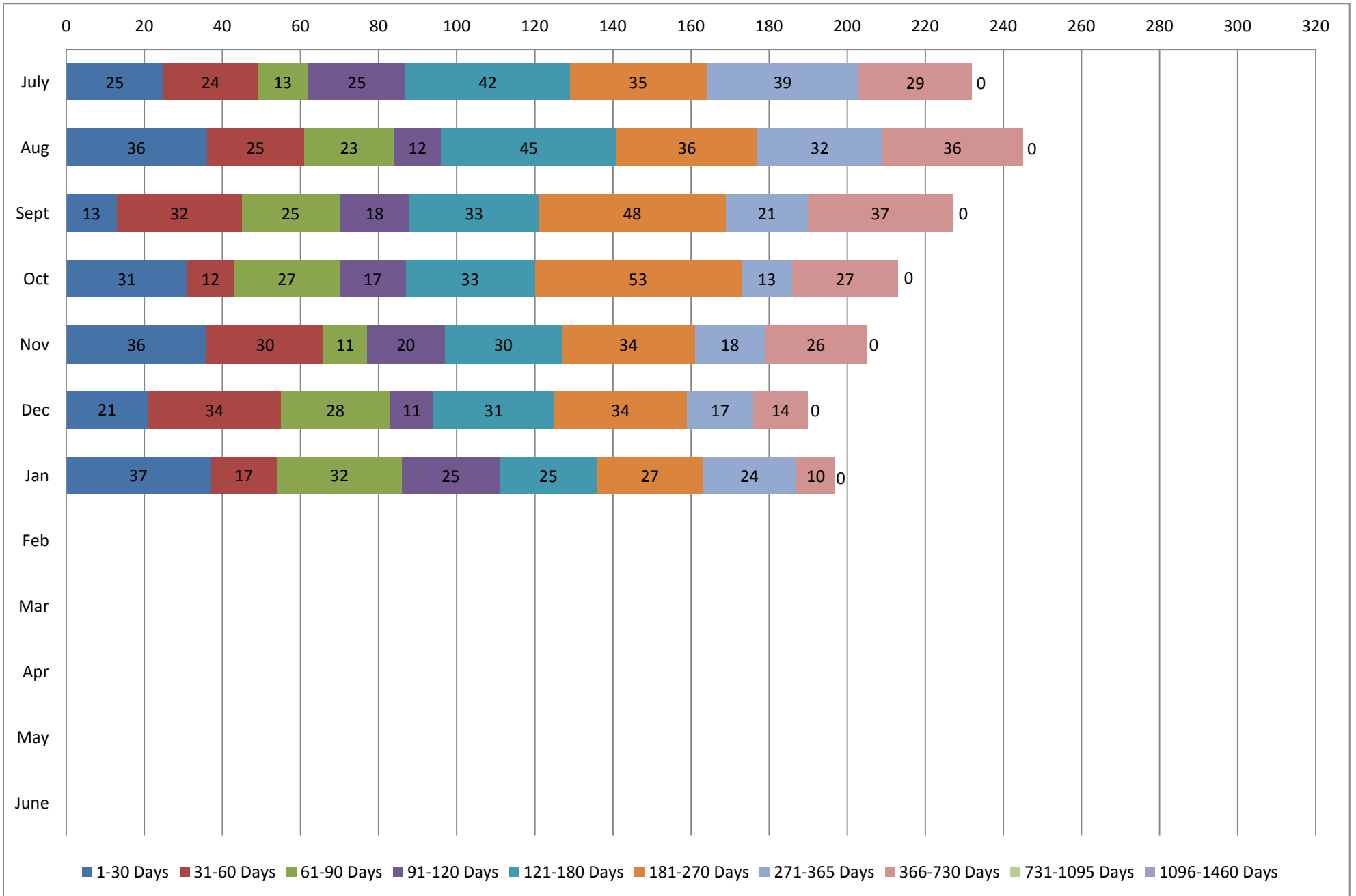
PELS ENFORCEMENT PROGRAM

Complaint Investigation Phase

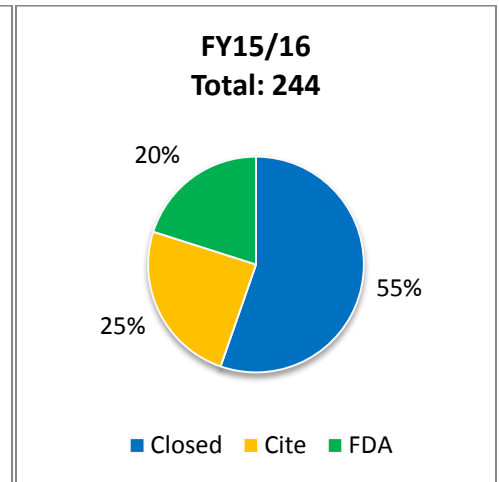
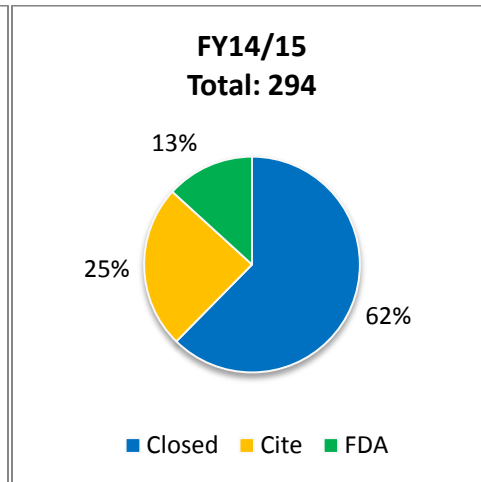
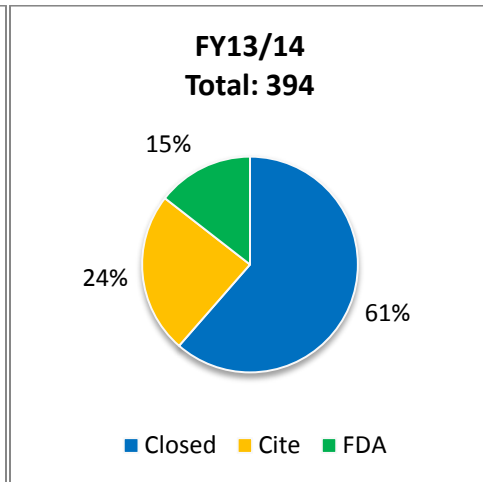
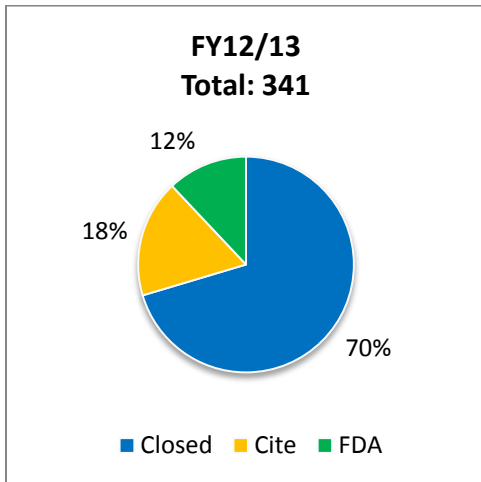
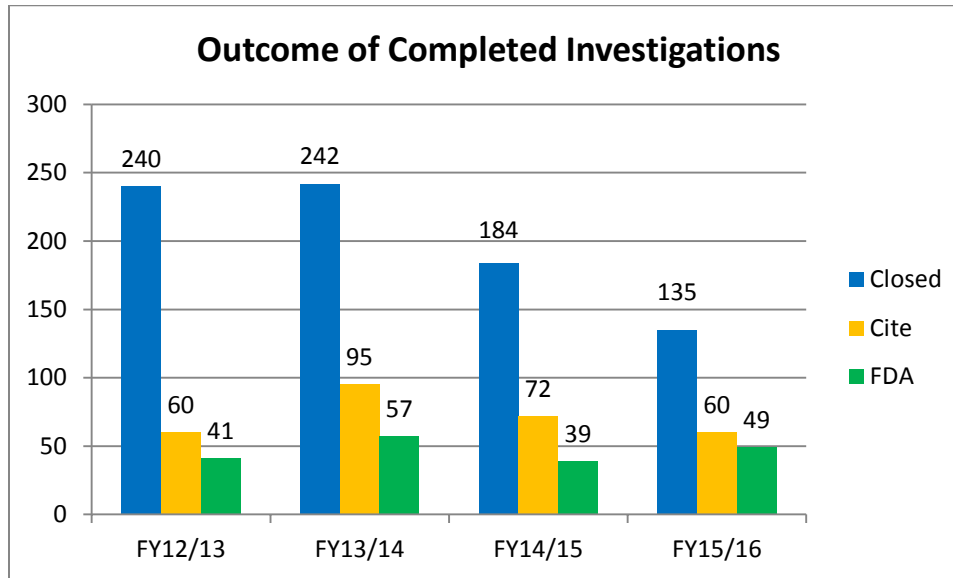


NOTE: FY15/16 statistics are through January 31, 2016

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



PELS ENFORCEMENT PROGRAM Outcome of Completed Investigations



NOTE: FY15/16 statistics are through January 31, 2016

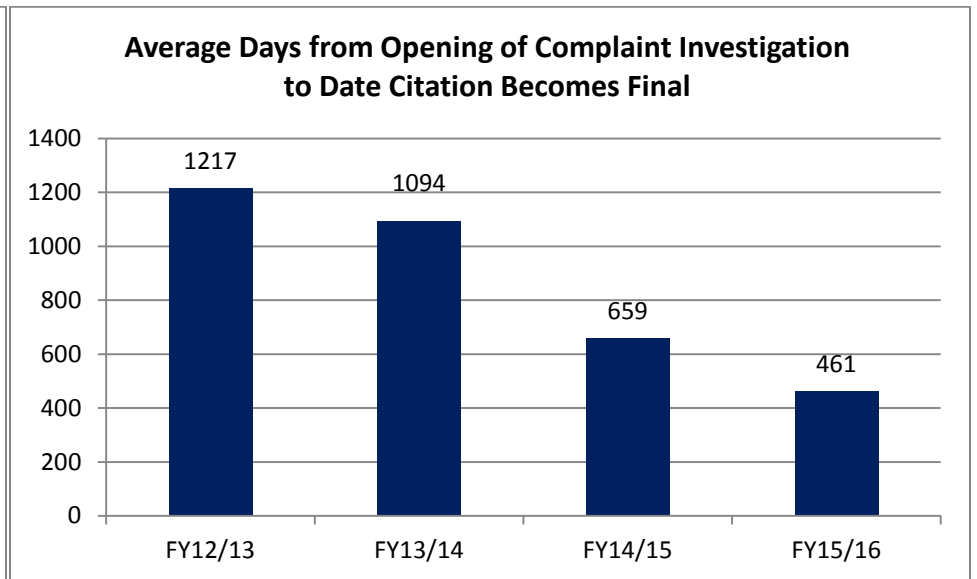
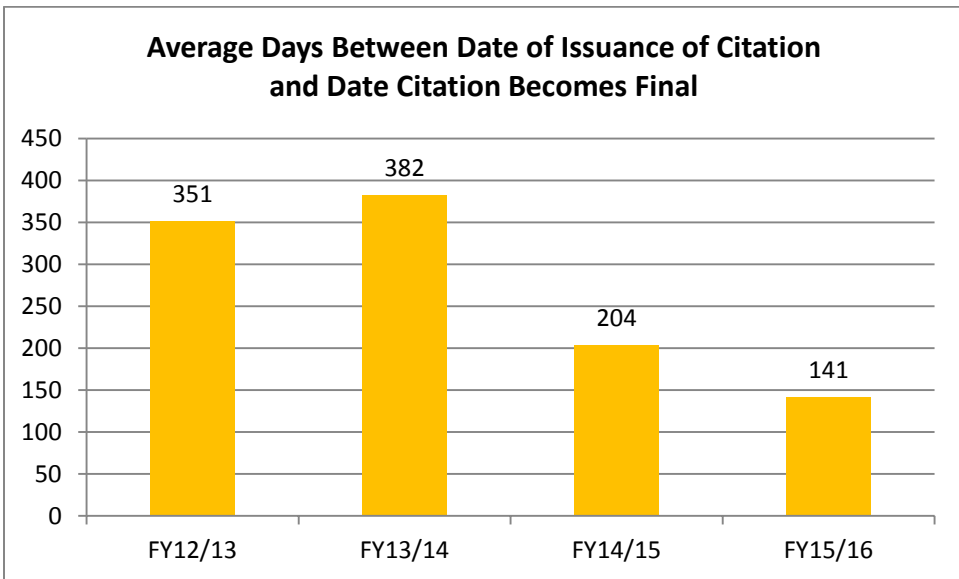
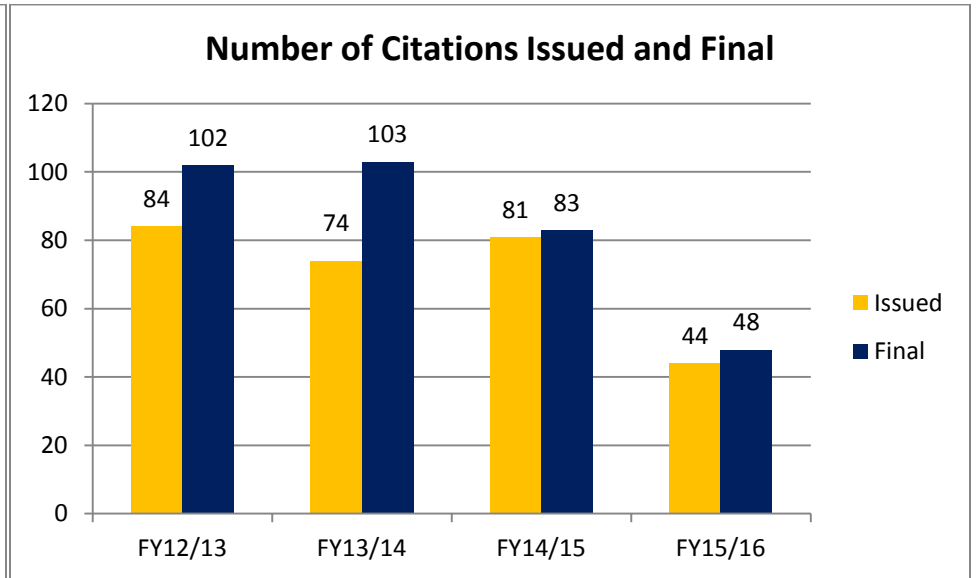
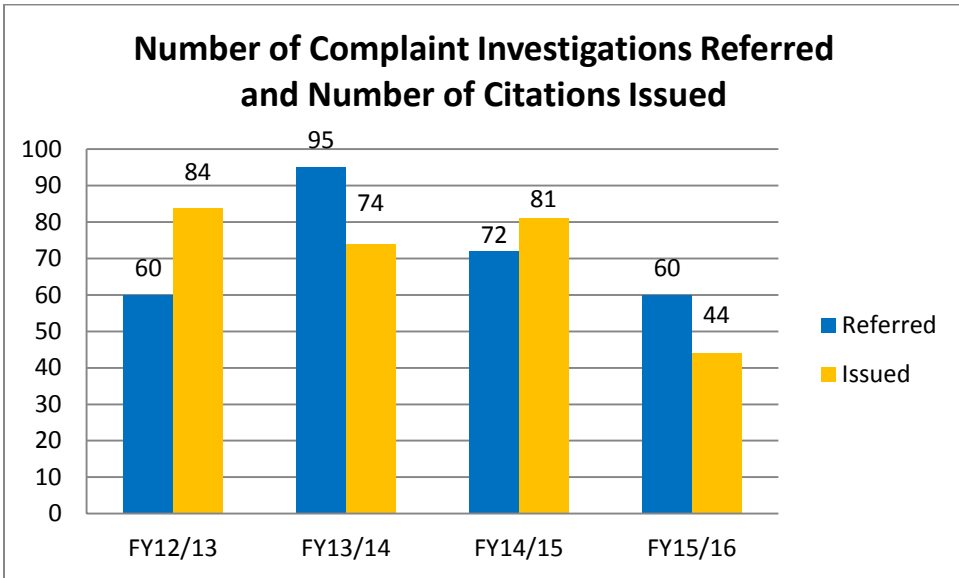
Closed = Closed with No Action Taken, includes the categories listed on the next page.

Cite = Referred for Issuance of Citation

FDA = Referred for Formal Disciplinary Action

PELS ENFORCEMENT PROGRAM

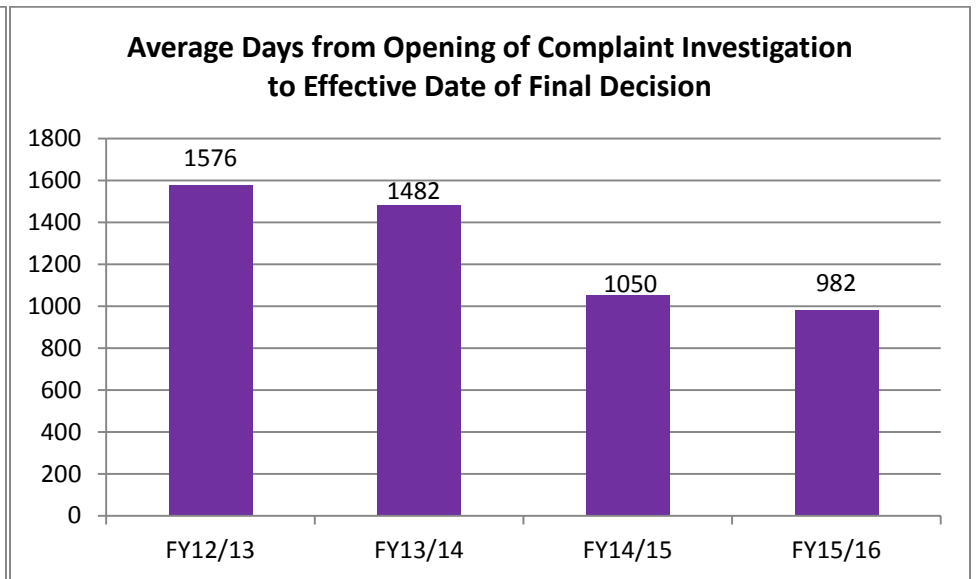
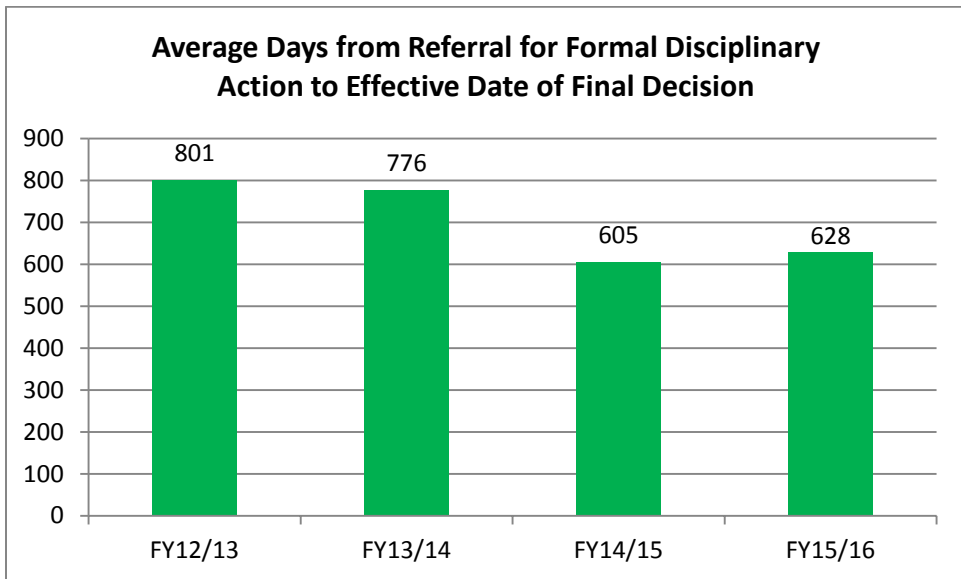
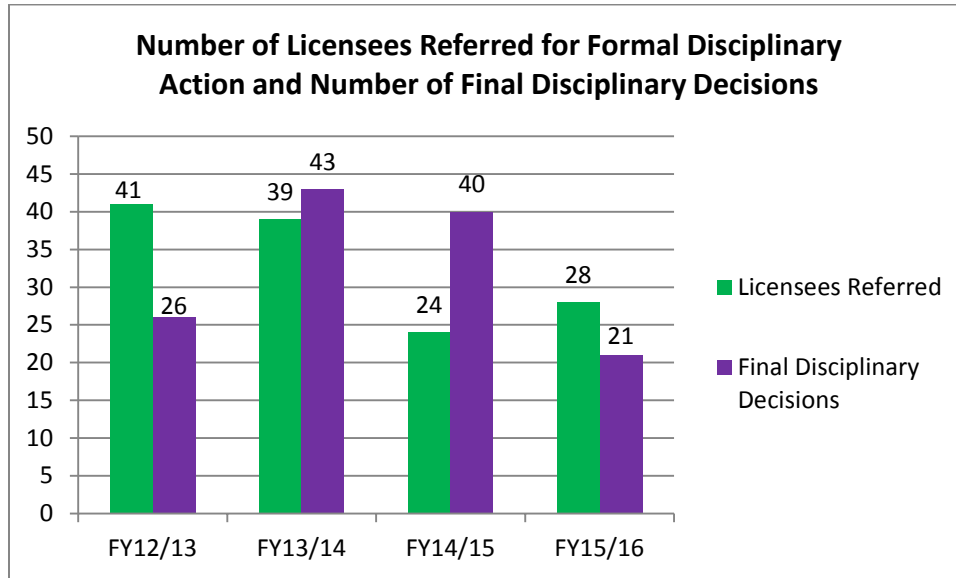
Citations (Informal Enforcement Actions)



NOTE: FY15/16 statistics are through January 31, 2016

PELS ENFORCEMENT PROGRAM

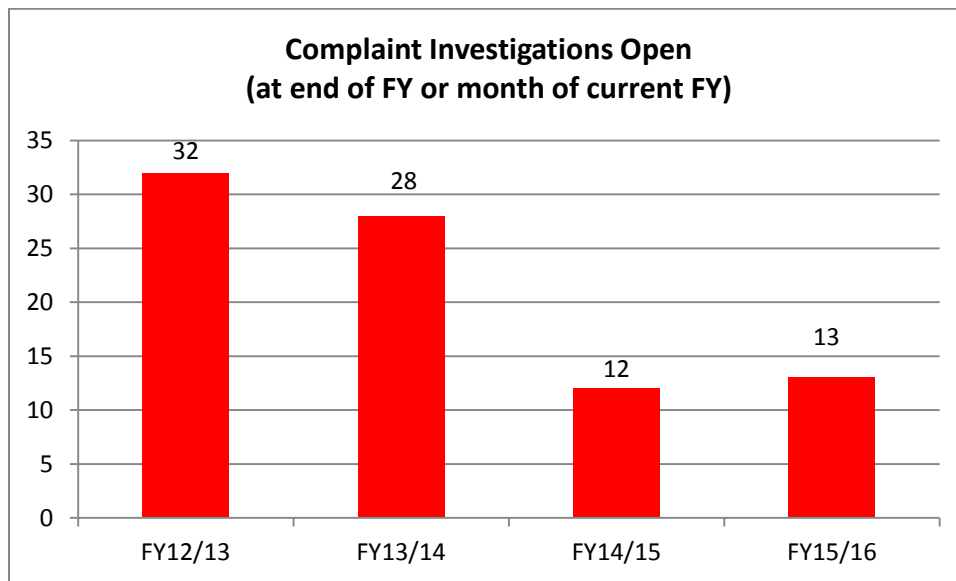
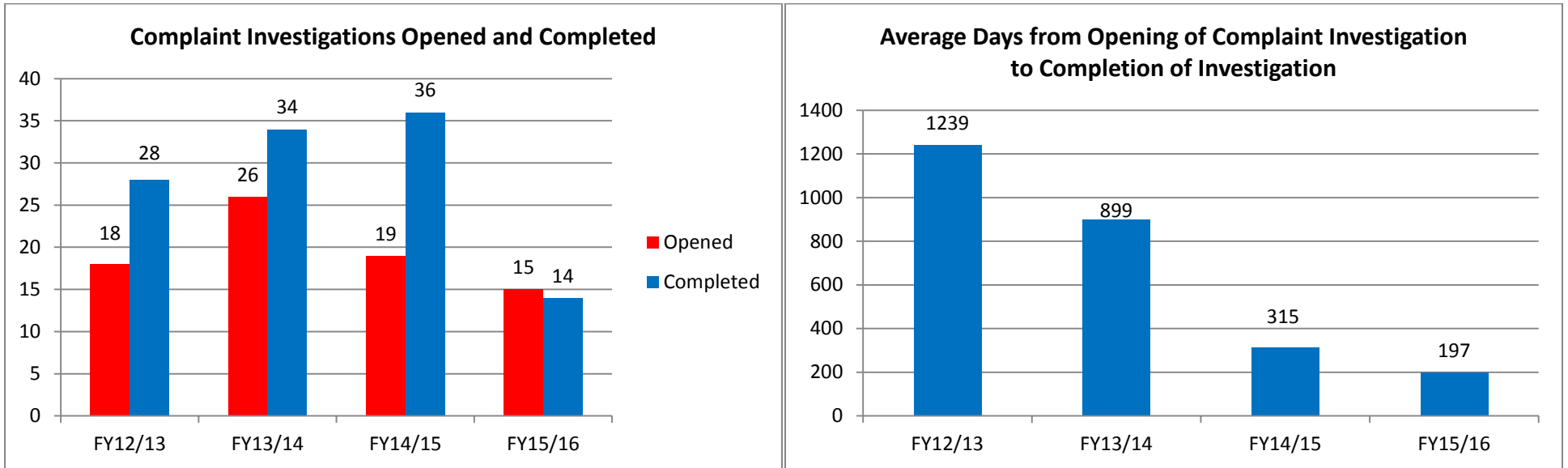
Formal Disciplinary Actions Against Licensees



NOTE: FY15/16 statistics are through January 31, 2016

G&G ENFORCEMENT PROGRAM

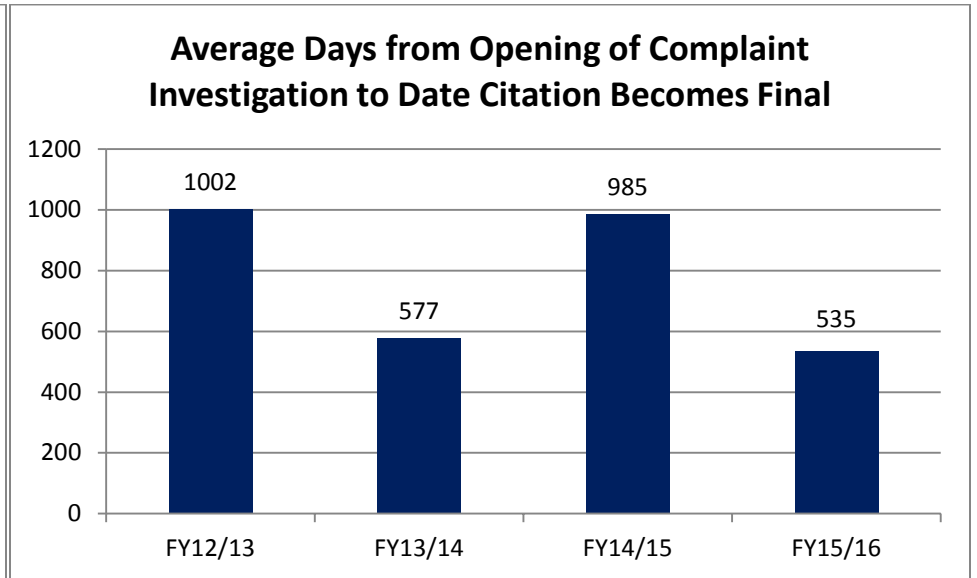
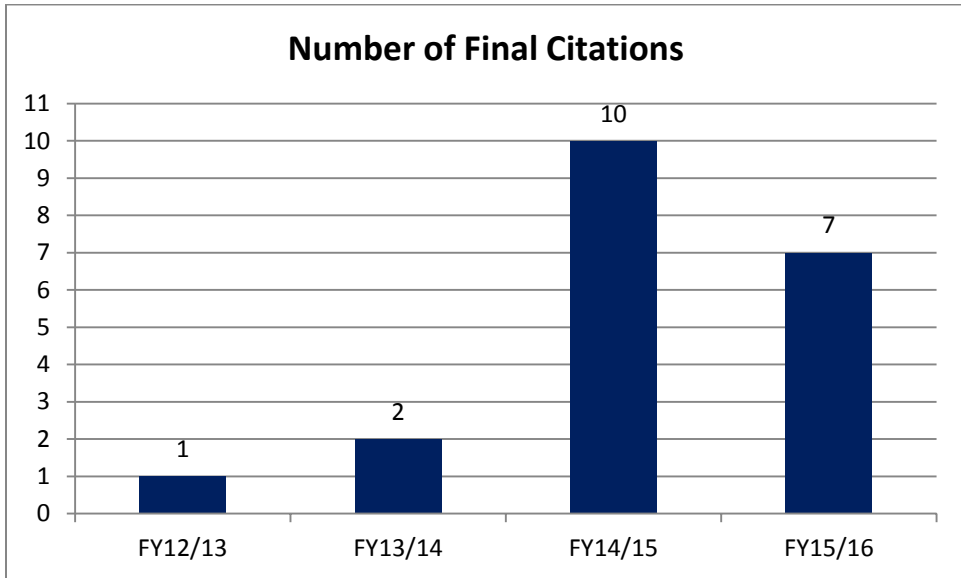
Complaint Investigation Phase



NOTE: FY15/16 statistics are through January 31, 2016

G&G ENFORCEMENT PROGRAM

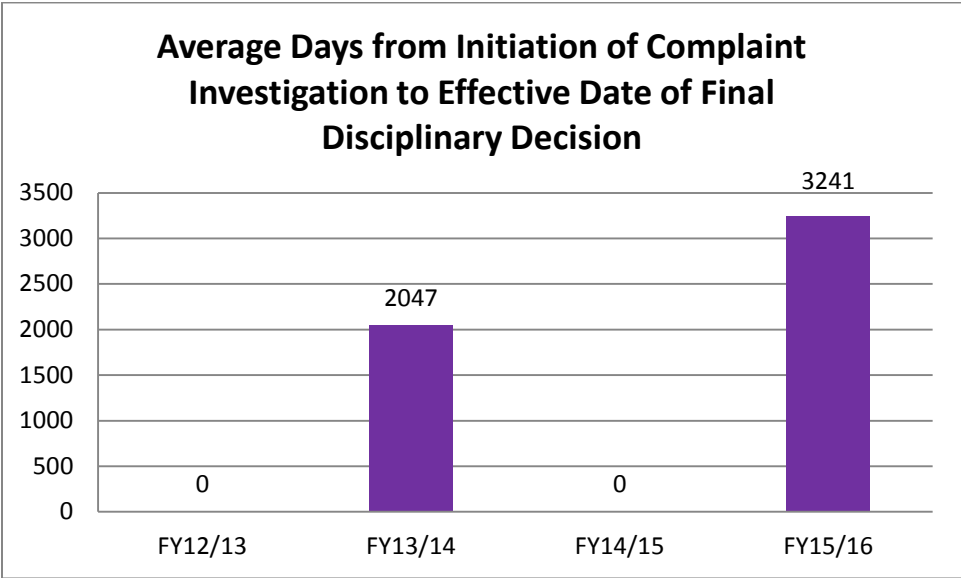
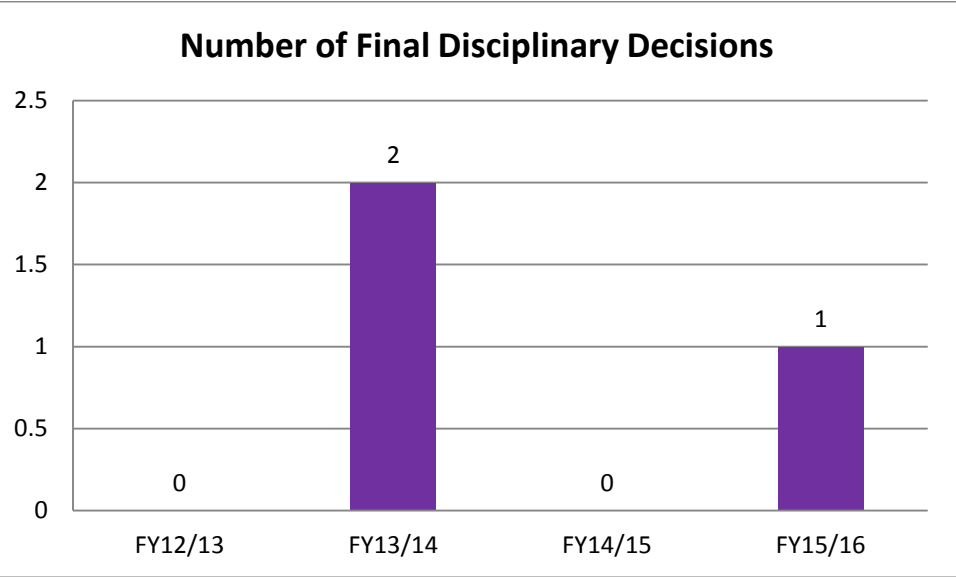
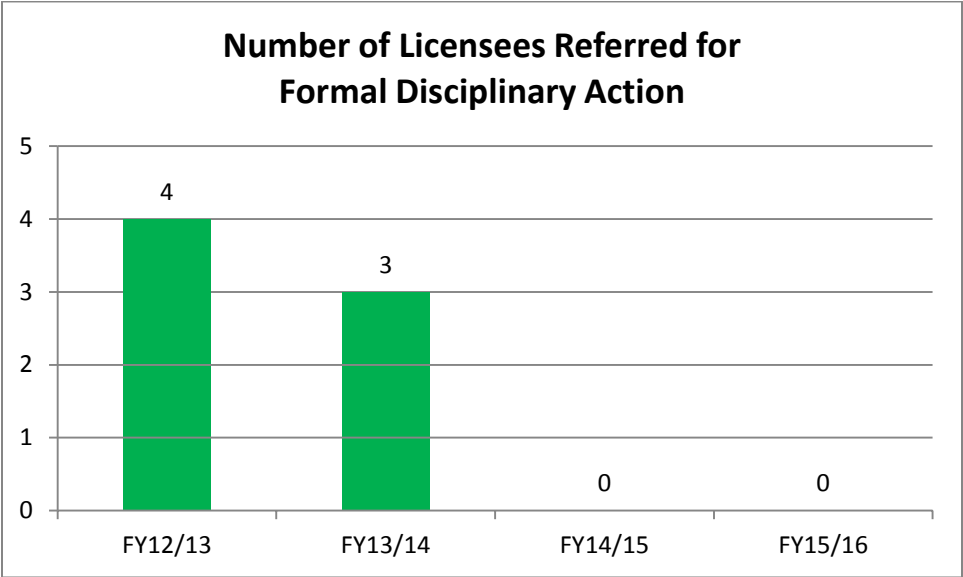
Citations (Informal Enforcement Actions)



NOTE: FY15/16 statistics are through January 31, 2016

G&G ENFORCEMENT PROGRAM

Formal Disciplinary Actions against Licensees



NOTE: FY15/16 statistics are through January 31, 2016

VII. Exams/Licensing

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

***PROFESSIONAL GEOPHYSICIST (PGp)
EXAMINATION OUTLINE
JUNE 2014***

I. PROJECT PLANNING (44%): This content area assesses the candidate's knowledge of designing a project that is consistent with geophysical methods and client objectives.			
A. Predesign Planning (22%)			
Job Task		Associated Knowledge Statement	
1.	Determine applicability of geophysical methods for projects by evaluating client objectives.	1.	Knowledge of geophysical investigation methods and their applications.
		7.	Knowledge of methods used to estimate geophysical parameters.
2.	Assess geophysical project sites through field inspection, site history, and review of existing data to identify conditions that may impact project scope.	2.	Knowledge of methods for obtaining existing physical, geophysical, geological, and other relevant data.
		10.	Knowledge of interference sources that affect geophysical data quality.
		37.	Knowledge of geological principles related to geophysical projects.
3.	Select geophysical investigation methods in accordance with site conditions, geology, and client objectives.	5.	Knowledge of site physical characteristics that could impact the quality of geophysical data.
	<p>Note: The same statement is written for knowledge statement 20 and 21. After comparing the knowledge statements in the Occupation Analysis and verifying with the Office of Professional Examination Services (OPES), it was determined that OPES had inadvertently entered the same information for statements 20 and 21. Statement 20 needs to be corrected to reflect 'gravity' measurement, not 'electrical' measurement.</p>	8.	Knowledge of geophysical characteristics that differentiate targets from their surroundings.
		18.	Knowledge of magnetic measurement methods and their applications.
		19.	Knowledge of seismic measurement methods (e.g., surface wave analysis, seismic refraction/reflection, ground vibration analysis, seismic tomography) and their applications.
		20.	Knowledge of electrical-gravity measurement methods and their applications.
		21.	Knowledge of electrical measurement methods and their applications.
		22.	Knowledge of electromagnetic measurement methods (e.g., VLF, GPR, TDF) and their applications.
		23.	Knowledge of borehole geophysical methods and their applications.
		37.	Knowledge of geological principles related to geophysical projects.
4.	Select equipment and instruments required for various geophysical investigation methods.	9.	Knowledge of geophysical instruments, their applications, and their limitations.
5.	Identify and evaluate public safety concerns related to geophysical projects.	11.	Knowledge of procedures for assessing public health and safety risks associated with geophysical projects.
6.	Develop conceptual geophysical models for geophysical projects.	39.	Knowledge of physics principles related to geophysical projects.

B. Project Design (22%)			
<i>Job Task</i>		<i>Associated Knowledge Statement</i>	
7.	Design geophysical projects based on site conditions, geology, regulations, and client objectives.	37.	Knowledge of geological principles related to geophysical projects.
8.	Identify and evaluate environmental and operational hazards related to geophysical work.	35.	Knowledge of how geohazards impact human occupancy, infrastructure, and the environment.
9.	Prepare/revise project work plans in accordance with geophysical project requirements.	6.	Knowledge of methods used to calculate cost estimates for geophysical projects.
10.	Identify and apply relevant local, State, and federal regulations to geophysical projects.	3.	Knowledge of local, State, and federal regulations related to geophysical projects.
		34.	Knowledge of California Occupational Safety and Hazard Act (Cal/OSHA) laws and regulations related to geophysical work.
11.	Develop quality assurance (QA) and quality control (QC) plans and procedures to ensure the validity of data gathered during geophysical projects.	12.	Knowledge of quality assurance (QA) and quality control (QC) requirements and procedures related to geophysical data.
		17.	Knowledge of methods for minimizing interference and instrument error when collecting geophysical data.
12.	Assess the limitations of geophysical projects using available data.	4.	Knowledge of the limitations of geophysical surveys.

II. INVESTIGATION PREPARATION AND DATA COLLECTION (22%): This content area assesses the candidate's knowledge of preparing an investigation and collecting data for a geophysical project.			
<i>Job Task</i>		<i>Associated Knowledge Statement</i>	
13.	Develop and implement site safety plans and procedures to mitigate hazards related to geophysical work.	32.	Knowledge of operational and environmental hazards related to geophysical work.
		33.	Knowledge of methods for minimizing hazardous site conditions (e.g., safety zones).
14.	Set up survey grids and lines on geophysical projects.	15.	Knowledge of basic field survey techniques (e.g., map reading, grid layout, compass use, GPS use) and their applications for geophysical projects.
15.	Initialize and set recording parameters on geophysical instruments.	13.	Knowledge of procedures for setting up geophysical instruments and recording their parameters.
16.	Calibrate or validate instruments used in geophysical projects according to equipment specifications.	14.	Knowledge of calibration/validation requirements and techniques for geophysical instruments.
17.	Record data using measurement methods outlined in work plans or geophysical survey designs.	13.	Knowledge of procedures for setting up geophysical instruments and recording their parameters.
18.	Verify that geophysical measurements and data have been collected in accordance with applicable standards and work plans.	16.	Knowledge of methods and procedures for using various instruments and equipment in geophysical projects.

III. DATA ANALYSIS AND REPORTING (34%): This content area assesses the candidate's knowledge of processing, analyzing, and interpreting geophysical data. It includes the candidate's knowledge of communicating project results. It also includes professional ethics and legal compliance.			
A. Data Analysis and Interpretation (20%)			
<i>Job Task</i>		<i>Associated Knowledge Statement</i>	
19.	Process geophysical data using appropriate techniques.	25.	Knowledge of methods for processing geophysical data.
		26.	Knowledge of geophysical software applications for data analysis and their limitations.
20.	Analyze geophysical data using applicable principles.	24.	Knowledge of methods for evaluating the quality of geophysical data.
		27.	Knowledge of data analysis techniques for geophysical data.
21.	Interpret geophysical results by integrating geological information, site conditions, and project objectives.	28.	Knowledge of methods for integrating a geophysical model into a geological model.
		37.	Knowledge of geological principles related to geophysical projects.
B. Reporting and Compliance (14%)			
22.	Prepare technical documents to communicate the findings of geophysical projects.	29.	Knowledge of methods for documenting and communicating geophysical results to various audiences (e.g., client, public, regulatory agency).
		30.	Knowledge of methods for preparing data visualizations (e.g., digital presentations, maps, cross sections) to depict results of geophysical projects.
23.	Report geohazard findings to clients and/or governmental agencies.	31.	Knowledge of requirements for reporting geophysical findings to clients and regulatory agencies.
		36.	Knowledge of legal responsibilities for reporting geohazards to clients and governmental agencies.
24.	Conduct professional work in compliance with ethical standards and legal requirements.	38.	Knowledge of California Code of Regulations, Title 16, Division 29 (Professional and Vocational Regulations), Sections 3000 - 3067 related to geophysicists.
		40.	Knowledge of California Business and Professions Code related to geophysicists.

VIII. Approval of Delinquent Reinstatements

IX. Administration

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 December for the current FY 2015/16 and prior year FY 2014/15.

Engineers and Land Surveyors (PELS) Fund

Fiscal Month 6	FY 15/16	FY 14/15
Expenditures	\$4.5 Million	\$4 Million
Revenue	\$5.9 Million	\$5.3 Million
Applications	5,066	5,420
Renewals	40,564	35,500

Budget Allotment	\$10.12 Million
Projection to Year-End	\$7.8 Million
Surplus/Deficit	\$2.34 Million
Revenue (Year-End)	\$8.18 Million

Geologist and Geophysicists (GEO) Fund

Fiscal Month 6	FY 15/16	FY 14/15
Expenditures	\$709 Thousand	\$646 Thousand
Revenue	\$586 Thousand	\$628 Thousand
Applications	230	256
Renewals	2,279	2,338

Budget Allotment	\$ 1.48 Million
Projection to Year-End	\$1.14 Million
Surplus/Deficit	\$342 Thousand
Revenue (Year-End)	\$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
BEGINNING BALANCE	\$ 5,830	\$ 6,991	\$ 7,353
Prior Year Adjustment	-43	-	-
Adjusted Beginning Balance	\$ 5,787	\$ 6,991	\$ 7,353
REVENUES AND TRANSFERS			
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	\$ 5,541	\$ 6,322
125900 Delinquent fees	\$ 59	\$ 60	\$ 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	\$ 8,176	\$ 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	\$ -	\$ -	\$ 1,082
Totals, Revenues and Transfers	\$ 8,548	\$ 8,176	\$ 13,596
Totals, Resources	\$ 14,335	\$ 15,167	\$ 20,949
EXPENDITURES			
Disbursements:			
1110 Program Expenditures (Governor's Budget)	\$ 7,336	\$ 10,116	\$ 11,914
Projected Program Expenditures			
Personnel Services		\$ 3,384	
Prorata		\$ 1,532	
General		\$ 1,001	
Examination		\$ 788	
Enforcement		\$ 1,091	
Sub-Total		\$ 7,796	
8880 Financial Information System for CA (State Operations)	\$ 8	\$ 18	\$ 14
Total Disbursements	\$ 7,344	\$ 7,814	\$ 11,928
FUND BALANCE			
Reserve for economic uncertainties	\$ 6,991	\$ 7,353	\$ 9,021
Months in Reserve	10.7	7.4	8.9

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	
BEGINNING BALANCE	\$ 989	\$ 1,122	\$ 1,082
Prior Year Adjustment	98	\$ -	\$ -
Adjusted Beginning Balance	<u>\$ 1,087</u>	<u>\$ 1,122</u>	<u>\$ 1,082</u>
REVENUES AND TRANSFERS			
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	<u>\$ 1,103</u>	<u>\$ 1,103</u>	<u>\$ -</u>
Transfers to Other Funds			
TO0001 Transfer to BPELSG	\$ -	\$ -	\$ -993
AB 177, Chapter 428			
Totals, Revenues and Transfers	<u>\$ 1,103</u>	<u>\$ 1,103</u>	<u>\$ (993)</u>
Totals, Resources	<u>\$ 2,190</u>	<u>\$ 2,225</u>	<u>\$ 89</u>
EXPENDITURES			
Disbursements:			
1110 Program Expenditures (Governor's Budget)	\$ 1,067	\$ 1,481	\$ -
Projected Program Expenditures			
Personnel Services		\$ 545	
Prorata		\$ 183	
General		\$ 83	
Examination		\$ 292	
Enforcement		\$ 37	
Sub-Total		<u>\$ 1,140</u>	
8880 Financial Information System for CA (State Operations)	\$ 1	\$ 3	\$ -
Total Disbursements	<u>\$ 1,067</u>	<u>\$ 1,143</u>	<u>\$ -</u>
FUND BALANCE			
Reserve for economic uncertainties	\$ 1,122	\$ 1,082	\$ 89
Months in Reserve	11.8	4.5	0.0

X. Executive Officer's Report

Legislation and Regulations Workgroup

Regulations:

The Board is currently in the process of amending a number of our regulations. Information regarding any proposals listed as noticed below may be found on the Board's website at http://www.bpelsg.ca.gov/about_us/rulemaking.shtml.

1. **Citations (472-473.4/3062-3063.4)** – proposing amendments to the citation program so that Board rules and regulations are all similar in content and form.
 - Current location in-house, in progress.
 - Board approved initial rulemaking proposal March 8, 2012.
2. **Exam Appeals Repeal (443, 444, 3063.1, 3037.1)** - amendments to the regulations relating to the Practices of Geology and Geophysics to repeal exam inspections and appeals for geophysicists or specialty geologists or specialty geophysicists.
 - Current location in-house, in progress.
 - Board approved initial rulemaking proposal March 7, 2013.
3. **Waiver of Fundamentals Exam (438(a)(2), (b)(2), & (b)(7))** - amend Board Rules to remove outdated exam language related to waiver of the fundamental examinations and repeal the right for a certified EIT to waive the LSIT examination.
 - 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 Office of Administrative Law (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 8, 2015.
 - Package sent to BCSH (Agency)
4. **SE, GE qualifications/experience (426.10/426.14/426.50)** - proposing regulatory amendments that will provide a clear date as to when an applicant's qualifying experience begins.
 - Current location in-house, in progress.
 - Board approved initial rulemaking proposal February 13, 2014.
5. **Corner Record (464(g))** - updating the Corner Record form so that it will be more relevant to the current practice of land surveying and provide additional clarification to the licensee and to the agency to which it is being submitted.
 - 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 Office of Administrative Law (OAL) November 13, 2015, for 45 day Comment Period.
 - OAL Comment Period ended December 28, 2015.
 - Public Hearing held January 5, 2016.

X. G. 1. Executive Officer's Report – NCEES – Nomination of NCEES Emeritus Members (Possible Action)

At the November 5, 2015 Board meeting, the Board voted to support a nomination for Pat Tami as NCEES President–Elect. Mr. Tami will be seeking Western Zone support at the May 19-21, 2016 Interim meeting with a final vote scheduled during the Annual meeting in August 2016.

Mr. Tami is currently in his grace year as a Board member and cannot be reappointed due to term limits, his term will end on June 30, 2016, or upon appointment by the Governor of a replacement, whichever occurs first. In order to continue to represent California at the national level, Mr. Tami must be designated as an Emeritus Member of the California Board for NCEES purposes.

Recommended Motion:

The Board nominates Pat Tami as an Emeritus Member of the California Board effective immediately upon his termination as an active member, subject to the approval of the NCEES Board of Directors.

X. G. 3. Executive Officer's Report – NCEES – Report from NCEES February 6, 2016 MBA Meeting (Possible Action)

Mr. Moore attended NCEES's Member Board Administrator (MBA) meeting in Atlanta on February 6, 2016. There were representatives from 30 member boards in attendance along with the current NCEES President, Southern Zone Vice President, Northeast Zone Vice President, and several members of NCEES staff. It was noted that only 3 of the Western Zone states were represented.

After receiving an introduction from the Chair of the MBA Committee, we heard reports from NCEES staff and the President on current affairs at NCEES.

Update on NCEES Examinations

General CBT: NCEES has chosen to change the testing windows to essentially be continuous eliminating the quarterly closed months in between windows.

FE/FS Exams: 2016 marks the beginning of the third year of CBT testing for the fundamentals exams and true to form, the initial scheduling/testing numbers are expected to continue to increase after the low numbers experienced in 2014, the first year of this change. NCEES anticipates that the FY 15-16 numbers will be 40k+ for the FE exams and exceed 1,000 examinees for the FS exam. At least the FE numbers are beginning to show an upward trend that may eventually match the numbers from 2012-14 administrations. NCEES tracks the Top 10 CBT Administration Sites by Volume (First time takers) and the University of Colorado is the only showing in this list from a state represented in the Western Zone. Interesting...American University of Sharjah placed 4th on the list in the last complete FY.

PS Exam: As previously mentioned, April 2016 will be the last paper-based administration of this exam. When NCEES registration opens in June for the fall 2016 exams, NCEES will begin to accept scheduling for the PS exam at CBT centers with the first date to sit being October 3, 2016 and continuous from that point forward.

PE Exams: NCEES anticipates the phasing in of the conversion to CBT beginning in 2018 with the PE-Chemical and the PE-Nuclear exams being first, followed by 2-3 additional exams annually thereafter. Some exams will be in LOFT format (larger populations similar to the FE/FS exams and the two California Civil exams) while others may remain in Linear Fixed Form (LFF) format (smaller populations). Evaluation for the 16-hour SE exam has not occurred yet.

16-hour Structural Exam: The Committee on Examination Policy and Procedures evaluated the original policy for the SE exam which currently requires all examinees that pass one 8-hour component of the SE exam, must pass the second 8-hour component

within 5 years from the date of passing the first component. If not, then the candidate must start all over. Even though some member boards do not have time or number of attempt restrictions, the EPP choose to maintain this policy. NCEES will continue to monitor this and notify potentially-affected examinees and associated boards on a regular basis.

Committee and Task Force Reports: We were briefed on highlights from the yet-to-be finalized committee and task force reports and it is anticipated that we will have more information available at next board meeting and prior to the WZ meeting in May.

Breakout Sessions

Redesign of the Registration System: NCEES is finalizing the redesign of its Examinee Registration system referred to as E3 and expecting that it will be launched in June 2016 to coincide with the fall 2016 registration period. They are integrating other disparate databases (Council Records, Credentials Evaluations, Verifications, Enforcement, etc.) into one system so that member boards, registrants, licensees, and NCEES staff have one integrated system that can track all exams, records, and disciplinary actions in one location.

One major change in the redesign has to do with the impending CBT registration for the profession-level exams (PS and PE) as it relates to the topic of decoupling (which will be discussed later in this report). NCEES has developed the new version of E3 to accommodate registrants that only meet Model Law requirements as it relates to new functionality associated with registering for the PE/PS exams. This new design provides a licensing board that wishes to allow registration, similar to the automatic model that FE/FS registrants use, that the registrant must have an ABET degree and NCEES must verify the transcripts (received directly from schools) prior to approving the registrant to sit for the exam. If a licensing board has alternative pathways in their laws that allow for an experience-only route, registrants for those licensing boards must choose to use the traditional manual approval method which necessitates Board Staff interaction on a continuous basis for approval.

I made the argument that I was aware of at least 6-8 boards which offered an alternative, experience-only pathway to licensure in addition to California's requirements which did not require education. I also pointed out that there was some level of discomfort associated with NCEES reviewing/approving transcripts as I, and several others at BPELSG, believe that approval of education transcripts is a condition of licensure, not of approval to sit for an examination. I also was concerned with the potential issues/liability if NCEES approved a transcript and a few years down the road, the licensing board chose not to, or vice versa. I also wondered if some state's laws wouldn't allow for NCEES to approve transcripts. No changes were proposed based on my arguments.

Council Records: It was also pointed out that with this new system, NCEES will have two (2) licensed PE/PS's review work experience forms submitted as part of a council record package. The review will be to determine if the experience is adequate and progressive. Traditionally, our review of council records, approved by NCEES, in the past has not been positive and our staff will still require Comity applicants to submit proper paperwork as necessary. It remains to be seen if this new process will benefit California.

License Verifications: These will be integrated into the new E3 system to alleviate lag time in requesting verification across states and also will integrate in with enforcement/disciplinary actions. Once verification is in the system from the original licensing state, it will remain in the system for subsequent states for those comity applicants seeking multi-state licensure.

NCEES anticipates web-based training for member boards sometime in May 2016 just prior to launch.

NCEES Web Site: NCEES is revamping their web site which is expected to coincide with the redesigned E3 system in June.

MBA Forum

Previously, during the 2014 Annual meeting, it was decided to allow decoupling of the examination requirements separate from experience which means that individuals could elect to sit for the PE/PS exam prior to obtaining any or all of their required work experience. At the time, approximately 8-10 states allowed for decoupling with Nevada having implemented it the longest. Nevada has over 10 years of statistics that compare exam results for those that take the exam earlier in their career versus later after obtaining the minimum required experience and the statistics consistently reflect very little difference between the two groups. Based on the conversations at this meeting, it appears that the number of states that will allow early exam or have already implemented changes has doubled and show signs of continuing to increase by the time that more PE exams convert to CBT.

Discussion ensued on the possibility of promoting an MBA summit during one of the interim zone meetings to attract more attendance and to seek separate a separate funded delegate for MBA's to attend the interim zone and annual meetings as it is recognized that when only board members attend, the licensing jurisdiction fails to sufficiently recognize discussions pertaining to operational challenges that are of interest to the administrators.

Lastly, TX PE Board emulated the new Emerging Leaders Committee in their state to provide feedback, insight, etc. on Board activities, especially effectiveness of outreach efforts.

**Executive Officer's Report – Report on Little Hoover Commission
February 4, 2016, Hearing on Occupational Licensing**

In December, 2015, the Board received a letter from the Little Hoover Commission (LHC) inviting the Board to provide any recommendations on their intended review of occupational licensing in California. In that letter, the LHC stated that

“The focus of the Commission’s review is on the impact of occupational licensing on upward mobility and opportunities for entrepreneurship and innovation for Californians, particularly those of modest means. The Commission also will examine the impact of occupational licensing on the cost and availability of services provided by licensed practitioners to consumers. The Commission also will assess the connection between occupational licensing regulations and the underground economy. The Commission will explore the balance between protecting consumers and enabling Californians to enter the occupation of their choice.”

Staff attended a portion of the initial February 4, 2016 hearing while at the Capitol. Others present included the Chief Consultant to the Assembly Business and Professions Committee and the Deputy Director for DCA’s Legislative and Regulatory Review division. While we were only present for part of the 4-hour hearing, we did develop a sense that the early speakers were advocating towards elimination of all occupational licensing in the traditional regulatory sense and believe that national certification would better serve the public, particularly lower income areas. The Commission Members that were present appeared to be interested in that point of view.

Given events that staff has become aware of in recent months, it appears there is an “undercurrent” in political arenas towards deregulation happening in multiple states which is beginning to appear like it may affect licenses currently regulated by this Board. Staff will continue to monitor the LHC progress on this review and report accordingly.



LITTLE HOOVER COMMISSION

December 11, 2015

Pedro Nava
Chairman

Loren Kaye
Vice Chairman

David Beier

Anthony Cannella
Senator

Jack Flanigan

Chad Mayes
Assemblymember

Don Perata

Sebastian Ridley-Thomas
Assemblymember

Richard Roth
Senator

David Schwarz

Jonathan Shapiro

Sumi Sousa

Carole D'Elia
Executive Director

Mr. Richard Moore
Executive Officer, Board for Professional Engineers, Land Surveyors and Geologists
2535 Capitol Oaks Dr., Suite 300
Sacramento, CA 95833

Dear Mr. Moore:

The Little Hoover Commission has begun a review of occupational licensing in California. To commence its review, the Commission has scheduled a public hearing on **February 4, 2016, in Room 437 of the State Capitol in Sacramento.** The Commission plans a second hearing on this topic in March 2016 and also may decide to hold advisory meetings on the subject or other opportunities for public input.

The number of individuals who must meet government-established criteria to practice a given occupation has grown rapidly in the last half century. In the 1950s, fewer than five percent of workers nationwide were required to hold licenses to practice their professions; by 2008, that number had increased to 29 percent of workers nationwide, according to economists Morris Kleiner and Alan Kreuger. Approximately 21 percent of California's 19 million-member workforce is licensed. Proponents of occupational licensing maintain that these regulations are necessary to protect the health and safety of consumers. Critics contend that the regulations at times go beyond consumer protection and unjustifiably restrict competition.

The focus of the Commission's review is on the impact of occupational licensing on upward mobility and opportunities for entrepreneurship and innovation for Californians, particularly those of modest means. The Commission also will examine the impact of occupational licensing on the cost and availability of services provided by licensed practitioners to consumers. The Commission also will assess the connection between occupational licensing regulations and the underground economy. The Commission will explore the balance between protecting consumers and enabling Californians to enter the occupation of their choice.

Any recommendations that you or your staff could provide the Commission on this topic, as well as any experts of whom we should be aware, would be appreciated.

If you have any questions, please contact Carole D'Elia, executive director, or Krystal Beckham, project manager. They can be reached by phone at (916) 445-2125 or by email at carole.d'elia@lhc.ca.gov and krystal.beckham@lhc.ca.gov.

Sincerely,

Pedro Nava
Chairman

c: Members, Board for Professional Engineers, Land Surveyors and Geologists

XI. Technical Advisory Committees (TACs)

XII. President's Report/Board Member Activities

XIII. Approval of Consent Items

DRAFT

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

**2535 Capitol Oaks Drive
Third Floor Conference Room
Sacramento, CA 95833**

**January 14, 2016
Thursday, January 14, beginning at 9:00 a.m.**

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

I. Roll Call to Establish a Quorum

President Stockton called the meeting to order at 9:00 a.m., and a quorum was established.

II. Public Comment

During public comment, Alex Calder, land surveyor, representing BKF Engineering of Redwood City, expressed his concerns with general contractors performing surveying. He stated that it is becoming a major issue and creating a lot of problems. He plans to meet with CSLB and discuss the issue with the OE3 union. President Stockton recommended that he file formal complaints to address specific individuals and have the Land Surveying TAC discuss the general issue.

III. Legislation

A. Discussion of Legislation for 2016

Ms. Williams reviewed the Legislative calendar and pointed out important dates.

AB 320

This bill would add the title “environmental engineer” to the Board’s title acts. The Board is opposed to adding new titles acts to the statutes because titles acts do not regulate the practice, they only regulate the use of the title itself. Additionally, adding the title “environmental engineer” 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 the Senate Appropriations Committee, and the Board took an oppose position on the most current amended version of this bill.

AB 12

This bill would require every state agency, department, board, or bureau to review and revise regulations to eliminate inconsistencies, such as overlapping, duplicative, and outdated regulation.

This bill is currently in the Senate Appropriations Committee, and the Board took a watch position on the most current version of this bill.

AB 507

This bill would require the Department of Consumer Affairs to submit an annual report to the legislature and the Department of Finance for the 3rd phase BreZE implementation.

This bill is currently in the Senate Business, Professions and Economic Development Committee. The Board took a watch position to the most current version of this bill.

SB 209

This bill would require the Department of Conservation lead agency employees to become certified and have opportunities for continuing education. Additionally, this bill would require the inspection of surface mining operations to be performed by appropriately licensed California licensed professionals.

This bill is currently on the Assembly Floor. The Board agreed to a support position at the November 5, 2016, meeting.

B. Legislative Proposal to Amend Business and Professions Code §7841.2 (GIT Criteria)

Ms. Racca presented a proposal to the Board in which it was recommended that the Board pursue legislation to amend §7841.2 to

allow a person to obtain their Geologist-in-Training (GIT) certificate prior to being awarded a degree. She explained that currently the law requires a person to have a a degree prior to obtaining their GIT certificate. This differs from the EIT and LSIT certificates, where a person may obtain the certificate prior to being awarded a degree. Mr. Tami clarified that the GIT certificate is not a license to practice, just a first step.

MOTION:	Mr. King and Ms. Mathieson moved to direct Board staff to proceed with a legislative proposal to amend §7841.2 of the Business and Professions Code as described.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Robert Stockton	X				
Coby King	X				
Natalie Alavi	X				
Fel Amistad	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

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

Ms. Racca reviewed and researched requirements at the college level. Through her outreach with universities and colleges and collaborating with staff, she recommended outreach or a webinar. She requested that the Board direct staff to host public workshops with both industry and academia to look at the research that has been done and the proposed minimum curriculum and get input and suggestions as to what would define a good professional geologist. Once the feedback has been gathered, she would like to have a draft regulation and the Board’s authorization to move forward. Ms. Jones Irish recommended sending participants a letter thanking them for their participation and providing information of what has come from their contribution.

MOTION:	Mr. King and Ms. Alavi moved to adopt proposal.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Robert Stockton	X				
Coby King	X				
Natalie Alavi	X				
Fel Amistad	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				

V. Enforcement

A. Enforcement Statistical Report

Mr. Tami and President Stockton commended the Enforcement Unit on the amount of cases closed. Mr. King noted that the exception was the Geology and Geophysics program. Ms. Criswell explained that they had to reinvestigate the geology and geophysics cases when the Boards merged. President Stockton noted this aids in meeting some of the Strategic Plan goals.

VI. Exams/Licensing

A. Fall 2015 Examination Results

Mr. Kereszt advised that the Geotechnical examination is now offered on a continuous basis. Once the candidate is qualified, they can schedule the examination when it is most convenient for them. It is the first state examination administered in this manner. Mr. Kereszt provided an amendment to the Geotechnical results through December. The original data presented reflected 60 candidates through November 30. In December, an additional 33 took the examination, for a total of 93 for the calendar year of 2015. Of the 93 candidates, 23 passed, for a pass rate of 25%. The pass rate is expected to go back up once the candidates become accustomed to the new process.

Mr. Tami would like data for first time takers vs. repeat candidates.

Ms. Alavi inquired as to why the Fall pass rate is lower than the Spring for the land surveyor examination. Mr. Moore explained that, historically, the examination was only offered in the Spring so the surveying community is still focused on that time period. During Public Comment, Mr. McMillan

added that most of the CLSA chapters that provide land surveyor review classes are focused on starting in December and January for the Spring exams. They are now trying to conduct these course in the fall as well.

Mr. Kereszt also reported that the geology and traffic examinations for Fall 2015 were the last examinations that were created in conjunction with OPES (Office of Professional Examination Services). The Board will now produce the examinations in house and no longer utilize OPES. Mr. Tami added that the NCEES Spring 2016 professional surveying exam will be the last pencil and paper exam and will then be computer based beginning in the fall.

B. Fingerprint Program Update

Mr. Kereszt reported that the process continues to develop since its implementation July 1, 2015. Candidates must be fingerprinted to receive their certificate. When the results were released in October, of the 1,190 examinees who were eligible for licensure, 659 were licensed; however, over 400 could not be as they had yet to complete the fingerprint requirement.

C. Delinquent Reinstatement Requirements

Ms. Eissler followed up on a request from the November 2015 Board meeting in which the Board requested additional information prior to making a decision on how to proceed. She explained that if an engineer or land surveyor's license has been expired for more than three years, they can have that same license reinstated if certain requirements are met. Whereas, with geologists and geophysicists if their license has been expired for five years they cannot get that same license back. They must apply for a new license and meet all the requirements in effect at the time including education requirements and taking and passing the examination. During the November meeting there was discussion and there was indication the Board seemed inclined to think that engineers and land surveyors should have the same requirements as geologists and geophysicists. Ms. Eissler provided some statistical data and identified ten individuals who had been issued a new 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 had let their license lapse for a little more than seven years before applying for a new license.

A professional engineer or land surveyor licensed in another state could apply via the comity process where they would have to show they have the required experience similar to the reinstatement process. It would then be determined if the comity applicant has taken and passed an equivalent exam(s) as would be required of a non-comity applicant, and the Board could waive whichever examination(s) was considered to be equivalent.

Ms. Eissler indicated that it would require legislation to change the statute. Mr. King's opinion is that all professions should be aligned.

Mr. Tami expressed his concern with having to retake the examination. He stated that a licensee would probably pay more attention to maintaining their license if they knew they would have to retake the examination. It would be a major deterrent.

MOTION:	Mr. Tami and Ms. Mathieson moved to direct staff to pursue a legislative proposal for Professional Engineers and Land Surveyors to mirror the Geologist and Geophysicist language.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Robert Stockton	X				
Coby King	X				
Natalie Alavi	X				
Fel Amistad	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				

VII. Approval of Delinquent Reinstatements

No report given.

VIII. Administration

A. Budget Summary

During the discussion, it was reported that the PELS and the GEO funds will be merged effective July 1, 2016.

Ms. Williams distributed a Pro rata information booklet from DCA.

President Stockton inquired as to the status of the loan repayment in the Governor's budget. Ms. Williams will look into it since the budget summary was compiled before the Governor's report.

IX. Executive Officer's Report

A. Legislation and Regulation Workgroup Summary

Ms. Mathieson would like a summary included for each regulation, possibly with links to the public documents.

B. Personnel

Mr. Moore reported that the Board added Angelica Guzman as a full time Office Assistant for the front desk. Carmen Jimenez is now an Office Technician with the Examination Unit, Ray Mathe has retired from State service and has gone on to be the San Diego County Surveyor. Mr. Tami commended Mr. Mathe for his outreach efforts. Mr. Silva suggested sending past Board member Mr. Ray Satorre a certificate as well.

C. BreEZe Update

Mr. Moore reported that Release II will go live Tuesday morning. The Board's Request for Offer was submitted January 4, 2016, as a Non-IT CMAS contract focusing on business process improvement.

D. ABET

Mr. Moore distributed a portfolio of the materials the Board distributes to students, licensees, etc., regarding the licensure process. Dr. Qureshi announced that he applied to become an ABET evaluator and was accepted.

E. ASBOG

Ms. Racca and Ms. Mathieson provided a report on the Fall 2015 ASBOG meeting. Ms. Mathieson indicated there was concern about the size of the item bank. Ms. Racca added that ASBOG's impression of computer based testing (CBT) is that individual states would contract with computer based testing facilities in order to implement. She believes that may be the main objection. ASBOG suggested California go CBT while the other states would go paper and pencil. ASBOG has requested that the exam staff participate in an administrative workshop to share their experiences.

Ms. Racca reported on the new EPA requirements. The Federal Register issued what is known as the Coal Combustion Residuals Rule. Ms. Racca explained that it deals with waste from coal powered plants that gets buried in a landfill. The EPA Coal Combustion Residuals Rule calls out the geology profession. There is no accreditation organization for the geology program. The EPA does not believe the boards that license geologists hold geologists to the same standards as engineers and land surveyors. Ms. Mathieson feels it is a detriment to public and environmental protection when the right professionals are not allowed to do their jobs investigating underground conditions at sites where wastes from coal powered plants have been buried.

Mr. Moore inquired if professional societies are involved. Mr. Racca noted that there is the American Geosciences Institute (AGI) which is a national organization that represents a number of geology professional societies. She believes ASBOG is attempting to partner with AGI to protest. Mr. Moore recommended staff monitor as it applies to licensure, not necessarily the practice.

President Stockton suggested sending correspondence to the EPA regarding the licensure process for geologists in California.

Mr. Moore reported that the ASBOG committee voted to increase the fee for the GIT from \$150.00 to \$200.00 per exam beginning in 2018.

F. NCEES

Out of State Travel (OST) requests have been made for the NCEES Member Board Administrators meeting. A letter in support of Patrick Tami as NCEES President Elect will be distributed to all Western Zone Boards. The Annual Meeting will take place in August.

G. Outreach

Ms. Racca continues to visit colleges and universities, approximately twice per month. She will be teaming up with ASBOG and attending the Geological Society of America meeting in Ontario, CA.

Mr. Donelson reported that he and Ms. Christ visited CalPoly, San Luis Obispo where they provided outreach. They were well received by the professors and students.

Mr. Phayer will be providing outreach for Fresno State's surveying program in late January.

H. Strategic Plan Year Two Goals

Mr. Moore reviewed the Year Two Objectives for 2016. Mr. Alameida, Mr. Kereszt, and Ms. Criswell reported that internal collaboration is based on communication among all staff which includes job shadowing within each unit and cross-unit training.

Ms. Jones Irish complimented staff on their responsiveness to Board requests.

MOTION:	Mr. King and Ms. Alavi moved to adopt the updates to the Strategic Plan indicated on page 131.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Robert Stockton	X				

Coby King	X				
Natalie Alavi	X				
Fel Amistad	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			

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
No report given.
- D. Approval of Land Surveying TAC Work Plan

MOTION:	Mr. King and Dr. Qureshi moved to adopt proposed LS TAC work plan as presented including a revised #9 and amended to include #10 to discuss the unlicensed practice of land surveying by general contractors and to make recommendations to the Board, as appropriate.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Robert Stockton	X				
Coby King	X				
Natalie Alavi	X				
Fel Amistad	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				
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XI. President’s Report/Board Member Activities

President Stockton welcomed Dr. Fel Amistad to the Board.

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 November 5, 2015, and December 4, 2015, Board Meetings

MOTION:	Mr. King and Dr. Qureshi moved to approve the November 2015 minutes as amended.
VOTE:	Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Robert Stockton	X				
Coby King	X				
Natalie Alavi	X				
Fel Amistad			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				

MOTION:	Mr. King and Dr. Qureshi moved to approve the December 2015 minutes as amended.
VOTE:	Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Robert Stockton	X				
Coby King	X				
Natalie Alavi			X		
Fel Amistad	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				

Mr. Tami suggested including a list of directives to aid in the follow-up of items.

XIII. Other Items Not Requiring Board Action

A. Updated 2016 Board Meeting Calendar

Ms. Calderone reported on the two date changes shown on the 2016 Board Meeting Calendar.

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 four stipulations and a petition for reconsideration and discussed litigation as noticed.

XVI. Adjourn

The meeting adjourned at 4:15 p.m.

PUBLIC PRESENT

Robert DeWitt, ACEC
 Rob McMillan, CLSA
 Steve Hao, CalTrans

XIV. Other Items Not Requiring Board Action

XV. 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)]

XVI. Open Session to Announce the Results of Closed Session

XVII. Adjourn
