Knowledge is Key to Public Participation

California Department of Conservation
Office of Mine Reclamation

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Managing California’s Working Lands
Surface Mining and Reclamation Act

(SMARA)

an

OVERVIEW
Surface Mining and Reclamation Act of 1975

- Supports production and conservation of California’s mineral resources
- Assures reclamation of mined lands
- Public Resource Code, § 2710 et seq. and California Code of Regulations, Title 14, § 3500 et seq.
To whom does SMARA apply?

Anyone, including government agencies, engaged in surface mining operations, which includes, but is not limited to:

- Prospecting & exploratory activities
- Dredging & quarrying
- Borrow pitting
- Stockpiling of mined materials (and recovery of same)
- Surface work incident to an underground mine
SMARA applies to...

Bureau of Land Management and Forest Service Lands

- Memorandum of Understanding
- Established between State of California, BLM and USFS in 1992
- Purpose is to coordinate surface mining and reclamation on Federal lands in California
Mining or exploration that equals or exceeds 1,000 cubic yards of material removed, or more than one (1) acre of surface disturbance

Lifetime calculation, not annual

1 acre includes haul-roads, stockpiles, waste, plant and equipment, boneyards, etc.

Thresholds also apply to surface disturbance associated with underground mines
What does SMARA require?

- Operators must obtain a **permit**, lead agency approved **reclamation plan**, and **financial assurance**
- Mine Operators must submit reports annually to OMR
- Mine Operators must pay annual fee
- Requires that mined lands be reclaimed
§ 2735. **Surface Mining Operations** means all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations shall include, but are not limited to:

(a) In place distillation or retorting or leaching.
(b) The production and disposal of mining waste.
(c) Prospecting and exploratory activities.
CCR §3501: **Surface Mining Operations**

In addition to the provisions of Section 2735 of the Act, borrow pitting, streambed skimming, segregation and stockpiling of mined materials (and recovery of same) are deemed to be surface mining operations.
Who Administers SMARA?

- Local Lead Agencies
- Department of Conservation
  - Office of Mine Reclamation
- State Mining & Geology Board
Lead Agency

- City, County, or SMGB Board
- Has approved mining ordinance
- Has at least one active mine within jurisdiction
- Federal agencies are not SMARA “Lead Agencies”
Ensuring Mine Operator compliance with SMARA is main Lead Agency function.

Even, consistent compliance oversight and enforcement at Lead Agency level is key to SMARA success.
Office of Mine Reclamation

- Lead Agency Oversight and Technical Assistance
- Maintain Database and AB3098 List
- Compliance – Annual Report and Enforcement Backstop
State Mining & Geology Board

- Promulgates Regulations
- Policy & Appeals Board
- May Act As Lead Agency
Mine Operator Responsibility

- Obtain Permit to Mine
- Reclamation Plan
- Financial Assurance
- Annual Report and Fees
Mine Operator Responsibility (continued)

- Amend Reclamation Plan
- Interim Management Plan
- Reclamation and Monitoring
Local Mining Ordinance

- Required by SMARA
- Opportunity for local jurisdiction to establish requirements specific to area
Approved Reclamation Plan

- Lead Agency review and approve
- OMR has 30 days to review and comment
Financial Assurance

- Adequate for Lead Agency or State to Complete Reclamation
- OMR has 45 day review period
In order to modify or release a Financial Assurance, documents required are:

- Inspection Report
- Financial Assurance Cost Estimate
- Letter or statement of adequacy from Lead Agency
Annual Inspections

- Key Lead Agency reporting and compliance tool
- Determine if the operation is in compliance with SMARA and permit conditions
- Opportunity for Financial Assurance review
SMARA ENFORCEMENT
Lead Agency Enforcement

- Enforces violations of local ordinances, use permits, etc.
- Primary responsibility for enforcing SMARA
OMR may take enforcement actions if:

- Lead Agency has been notified of violation for 15 days, and **has not** taken appropriate enforcement action, or

- Violation is an imminent and substantial endangerment to public health, safety, or to the environment
  - AG may seek an order enjoining the operation
Examples of SMARA violations

- Inadequate or no financial assurance
- Non-compliance with or no reclamation plan
What is the SMARA Enforcement Process?
Annual Inspections

- Required annually by SMARA (PRC Section 2774)
- Inspections must be conducted once a year, within 6 months of receipt of the annual report
Enforcement Process under PRC Section 2774.1

- Lead Agency or OMR may issue Notice of Violation via personal service or certified mail
- Operator has 30 days to correct violation
- Lead Agency or OMR issues
  - Order to Comply, or
  - Order to Cease mining if operator has no reclamation plan or financial assurance
Order To Comply

Order shall:

- Specify which activities or operations are inconsistent with SMARA
- Include a timeline for compliance
- Take into account seriousness of violation and any good faith efforts made to comply
Any operator who fails to follow through with an Order to Comply

Penalty cannot exceed $5,000/day
Remedies under §2774.1 are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal
What is the AB 3098 List?

- Purpose
- Maintained by OMR
- Published Quarterly
  - January, April, July, and October
Criteria to be on the List?

- Approved reclamation plan
- Approved **financial assurance** by lead agency and reviewed by OMR staff annually
- Filed its **annual report**
- Paid annual **reporting fee**
- Has had an **annual inspection** by the lead agency
Office of Mine Reclamation’s (OMR) role regarding the list

- OMR becomes aware of an operations non-compliance issue
- A notice of non-compliance and possible exclusion from the AB 3098 list is sent to the operator
- Operator is given 30 days to correct the issue
- Lead Agency receives courtesy copy (cc) of the same notice
What Laws Apply?

- **Public Contract Code, Section 10295.5**
  No state agency shall acquire or utilize mined materials from mine operators not on the list.

- **Public Contract Code, Section 20676**
  Operators of surface mines in this state, that are not identified on the list, may **NOT** sell that California mined material to a local agency.

- **Public Resources Code, Section 2717(b)**
  Describes the Department’s requirement to publish the list
The AB 3098 List is available online!

www.conervation.ca.gov/OMR/ab_3098_list
New Era Mine

Rich Meyers of Dry Creek Coalition

Keith Wagner helps win CEQA and SMARA lawsuit