

**TITLE 10, CHAPTER 5
SURFACE MINING RECLAMATION ORDINANCE**

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Article 1. Title, Authority, and Purposes

Sec. 10-5.101. Title.

This chapter shall be known as the "The Surface Mining Reclamation Ordinance of Yolo County or "Reclamation Ordinance."

Sec. 10-5.102. Authority.

This chapter is enacted pursuant to the authority granted by the California Surface Mining and Reclamation Act of 1975, Chapter 9 of Division 2 of the Public Resources Code of the State, commencing with Section 2710; the State Mining and Geology Board Reclamation Regulations, Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, commencing with Section 3500; and pursuant to the powers of the County to protect the public health, safety, and welfare pursuant to Section 7 of Article XI of the Constitution of the State.

Sec. 10-5.103. Purposes.

The purposes of this chapter are as follows:

(a) The reclamation of mined lands is necessary to prevent or minimize the adverse effects of mining on the environment and to protect the public health and safety;

(b) The reclamation of mined lands shall provide for the protection and subsequent beneficial use of mined lands. However, mining takes place in diverse areas, with significantly different geologic, topographic, climatic, biological, and social conditions, so that the methods and operations of reclamation plans may vary accordingly to provide for the most beneficial reclamation of mined lands;

(c) In order to provide for reclamation plans that are specifically adapted to the requirements of particular mined lands; and to ensure that mined land is reclaimed to end uses

such as agriculture, habitat, groundwater recharge, flood control, and channel stabilization in a consistent manner to maximize their overall management; this chapter imposes performance standards by which reclamation methods and operations shall be measured;

(d) The continued protection of agriculture and open-space uses is essential. As such, all off-channel, prime agricultural land and/or off-channel lands zoned Agricultural Preserve (A-P) and within a Williamson Act contract at the time that mining commences shall be reclaimed to an agriculturally productive state equal to or greater than that which existed before mining commenced. Prime agricultural land that is within the A-P Zone and is not within a Williamson Act contract shall be reclaimed to those uses which are declared by the County to be compatible with agricultural activities. Such uses include, but are not limited to, the following:

- (1) Agriculture and range land;
- (2) Groundwater storage and recharge areas;
- (3) Native fish, wildlife, invertebrate, and plant habitat;
- (4) Watercourses and flood control basins; and,
- (5) Recreational or open space lands.

(e) Non-prime agricultural land shall be similarly reclaimed to one of the alternate uses described above; and

(f) Reclamation plans shall be designed to integrate with the long-term goals of encouraging agriculture and recreation while protecting , habitat, recreation, and protecting the riparian corridor. Provisions shall be made to continue monitoring and maintenance activities after reclamation is completed, where appropriate, in order to ensure that reclaimed uses remain compatible with and enhance local resource management.

Article 2. Definitions

Sec. 10-5.201. Scope.

The definitions set forth in section 2725 et seq. of the Act and 3500 et seq. of the Regulations shall apply throughout this chapter. In addition, the definitions set forth in this article shall also govern the interpretation of this chapter.

Sec. 10-5.202. Abandon: Abandonment.

"Abandon" or "abandonment" shall mean to cease surface mining or reclamation with the intention of not resuming or reclaiming. Operations that have an approved interim management plan shall not be considered abandoned, unless the operator is financially incapable of performing reclamation or has failed to observe an order to comply. However, any surface mining operation that is idle for twelve (12) consecutive months or longer shall be considered abandoned.

Sec. 10-5.203. Act.

"Act" shall mean the Surface Mining and Reclamation Act of 1975, specifically referring to Chapter 9 of Division 2 of the State Public Resources Code, Sections 2710 et seq.

Sec. 10-5.204. Agency.

"Agency" shall mean the County Administrator (§ 1, Ord. 1191, eff. September 5, 1996, as amended by § 2, Ord. 1407, eff. April 28, 2011)

Sec. 10-5.205. Board.

"Board" shall mean the Board of Supervisors of the County.

Sec. 10-5.206. CEQA.

"CEQA" shall mean the California Environmental Quality Act set forth in Sections 21000 et seq. of Division 13 of the Public Resources Code of California.

Sec. 10-5.207. Commission.

"Commission" shall mean the Planning Commission of the County, or its successor in function.

Sec. 10-5.208. County.

"County" shall mean the County of Yolo.

Sec. 10-5.209. Department.

"Department" shall mean the State Department of Conservation, or its successor in function with regards to surface mining and reclamation regulation.

Sec. 10-5.210. Director.

"Director" shall mean the County Administrator, or a designee chosen by the Administrator. (§ 1, Ord. 1191, eff. September 5, 1996, as amended by § 2, Ord. 1407, eff. April 28, 2011)

Sec. 10-5.211. Financial Assurances.

"Financial assurances" shall mean monetary funds, securities, or other instruments provided by the operator to ensure that surface mining operations are reclaimed according to the approved reclamation plan, should the operator abandon the mine site.

Sec. 10-5.212. Haul Road.

"Haul road" or "route" shall mean: 1) a road along which material is transported from the area of excavation to the processing plant or stock pile area of the surface mining operation; and/or 2) the designated route aggregate trucks are authorized to take pursuant to Section 104.419.

Sec. 10-5.213. Idle.

"Idle" means that an operator of a surface mining operation has curtailed production at the surface mining operation, with the intent to resume the surface mining operation at a future date, for a period of one year or more by more than 90 percent of its maximum annual mineral

production within any of the last five years during which an interim management plan has not been approved.

Sec. 10-5.214. Interim Management Plan.

"Interim management plan" shall mean an amendment to the approved reclamation plan to provide measures for maintaining an idle mine site until operations are resumed.

Sec. 10-5.215. Irrevocable Letter of Credit.

"Irrevocable letter of credit" shall mean a form of financial assurance whereby a bank authorized to do business in the State of California submits a letter granting credit on behalf of the mine operator.

Sec. 10-5.216. Mined Lands.

"Mined lands" shall mean the surface, subsurface, and groundwater of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.

Sec. 10-5.217. Mining Waste.

"Mining waste" shall mean the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from, or displaced by, surface mining operations.

Sec. 10-5.218. Minor Modification.

"Minor modification" shall mean a change in the approved reclamation plan that does not substantially alter the intent or the conditions of the reclamation plan.

Sec. 10-5.219. Operator.

"Operator" shall mean any person who is engaged in surface mining operations, or who contracts with others to conduct operations on their behalf, except a person who is engaged in surface mining operations as an employee with wages as their sole compensation.

Sec. 10-5.220. Overburden.

"Overburden" shall mean soil, rock, or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by surface mining operations.

Sec. 10-5.221. Prime Agricultural Land.

"Prime agricultural land" shall mean all land which meets the definition of prime agricultural land set forth in Section 51201 of the Government Code of the State as administered by the County in the administration of its agricultural preserve program.

Sec. 10-5.222. Reclamation.

"Reclamation" shall mean the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, threats to public health or safety, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

Sec. 10-5.223. Reclamation Plan.

"Reclamation plan" shall mean the operator's completed and approved plan for reclaiming lands affected by any surface mining operations conducted after January 1, 1976, as required by Section 2772 of the Public Resources Code of the State.

Sec. 10-5.224. Regulations.

"Regulations" shall mean the State Mining and Geology Board Reclamation Regulations, specifically referring to Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations.

Sec. 10-5.225. Responsible Agency.

"Responsible agency" shall mean all public agencies other than the County which have discretionary approval power over the project.

Sec. 10-5.226. Slope.

"Slope" shall mean the angle of the ground surface, expressed as a ratio of the horizontal distance to the vertical distance.

Sec. 10-5.227. State CEQA Guidelines.

"State CEQA guidelines" shall mean those regulations set forth in Sections 15000 et. seq. of Chapter 3 of Title 14 of the California Code of Regulations.

Sec. 10-5.228. Surety Bond.

"Surety bond" shall mean a form of financial assurance whereby an indemnity agreement is executed in a certain amount, either by the mine operator as principal and surety, or by a surety firm authorized to do business in the State of California.

Sec. 10-5.229. Surface Mining Operations.

"Surface mining operations" shall mean 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 incidental to an underground mine. Surface mining operations

shall include, but are not limited to in-place distillation or retorting or leaching; the production and disposal of mining waste; and prospecting and exploratory activities.

Sec. 10-5.230. Trustee Agency.

"Trustee agency" shall mean a state agency having jurisdiction by law over natural resources affected by a project which are held in trust for the people of the State of California.

Sec. 10-5.231. Trust Fund.

"Trust fund" shall mean a form of financial assurance, including cash deposited in a federally insured account; negotiable bonds "held in escrow" by a political subdivision and endorsed by the operator, and rated "A" or better by a nationally recognized bond rating organization; or negotiable certificates of deposit in a federally insured depository.

Article 3. Scope and Exemptions

Sec. 10-5.301. Incorporation by Reference.

The provisions of the Act and the Regulations, as those provisions and regulations may be amended from time to time, are made a part of this chapter by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that when the provisions of this chapter are more restrictive than corresponding state provisions, this chapter shall prevail.

Sec. 10-5.302. Scope of Regulations.

Unless otherwise provided in this article, no person shall conduct surface mining operations within the unincorporated area of the County unless a reclamation plan has been approved and adequate financial assurances have been submitted, in accordance with this chapter. Nothing in this chapter shall be interpreted as requiring the filing of a reclamation plan or financial assurances for, or the reclamation of, mined lands where surface mining operations were completed prior to January 1, 1976.

No reclamation plan application is required if the operator can provide evidence of a reclamation plan for the site approved by the County prior to January 1, 1976, and if the operator has accepted responsibility for reclaiming the mined lands in accordance with the approved reclamation plan.

Sec. 10-5.303. Scope: Area Defined.

This chapter shall apply only to the area located within the boundaries of the Cache Creek Area Plan of the Yolo County General Plan.

Sec. 10-5.304. Exemptions: Defined.

The provisions of this chapter shall not apply to those activities and operations which are exempted by Sections 2714 and 2776 of the Act. Any exemption granted from the provisions of

this chapter shall not, in and of itself, exempt a project or activity from the application of other applicable regulations and requirements.

Sec. 10-5.305. Exemptions: Applications.

Applications for exemptions shall be submitted to the Director for review and determination as to completeness. If the application is determined incomplete, the Director shall notify the applicant in writing within thirty (30) days, specifically describing the information necessary to complete the application. Upon receipt of a completed application, the Director shall determine whether the operation is exempt or is subject to the provisions of this chapter. Any person with standing may appeal the Director's decision to the Commission, pursuant to Article 11 of this chapter.

Article 4. Minimum Reclamation Standards: In-Channel Operations

(Not Used)

Article 5. Minimum Reclamation Performance Standards Off-Channel Operations

Sec. 10-5.501. Reclamation Standards: Scope.

The general standard for the reclamation of mined lands is to restore the site to a usable condition which is readily adaptable for alternate land uses consistent with the policies of the County expressed in Article 1 of this chapter and in the General Plan, specific plans, and zoning laws.

This article sets forth minimum acceptable practices to be followed in reclamation operations to implement this general standard. These minimum acceptable standards shall be considered and discussed in every reclamation plan approved pursuant to this chapter. In addition, the minimum statewide reclamation practices and standards set forth in the Regulations shall also be considered and discussed in every reclamation plan approved pursuant to this chapter. These standards shall be followed in addition to any other conditions of approval or regulations imposed on the surface mining permit.

Sec. 10-5.502. Aesthetics.

Means of improving the appearance of the landscape after mining has been completed shall be assessed based on site-specific visual characteristics, site lines, and view corridors. The use and placement of berms, vegetative screens, special plant materials, grading slopes, and contouring the sides and top surfaces of modified landforms to mimic surrounding landforms, or other measures, shall be incorporated into the mine reclamation plan as appropriate.

Sec. 10-5.503. Backfilled Excavations: Groundwater Flow Impacts.

The area of backfilled off-channel excavations extending below the groundwater table shall be minimized in order to reduce changes to groundwater levels and flow. Backfilled pits shall be oriented with regard to the direction of groundwater flow to prevent localized

obstructions. If a backfilled off-channel excavation is proposed to penetrate either fifty (50) feet or one-half (1/2) into the saturated thickness of the shallow aquifer, then at least six months prior to the commencement of excavation below the average high groundwater level, the applicant shall demonstrate in a manner consistent with the Technical Studies that the pit design will not adversely affect active off-site wells within one-thousand (1,000) feet of the proposed pit boundary. If the application includes a series of backfilled pits, then the applicant shall also demonstrate that the cumulative effects of the multiple backfilled pits will not adversely affect groundwater flow, if there are any active off-site wells within one-thousand (1,000) feet of the pit boundaries.

The applicant shall demonstrate, using MODFLOW (or a similar model of equal capability and proven reliability, as approved by the Director), that the proposed pit design would not adversely impact active off-site wells within one-thousand (1,000) feet of the proposed pit boundary or result in well failure. Average, historic low groundwater levels, which represent the condition of maximum threat to water levels in the subject well, shall be used for this simulation. If an adverse impact is identified by the MODFLOW (or other approved model) simulation, the mining and reclamation plan shall be modified, or the applicant shall submit a written agreement that the well owner has agreed to relocate or redesign the well, or accept the potential impact (at no expense to the County).

Site-specific aquifer testing shall be conducted, if needed, to determine aquifer properties for the required modeling.

Sec. 10-5.504. Backfilled Excavations: Improvements.

Improvements, including the construction of buildings, roadways, or other public facilities proposed for construction in reclaimed mining pits shall require a geotechnical investigation of the stability of fills conducted by a Licensed Geotechnical Engineer or a Registered Civil Engineer. A report on the results and recommendations of the investigation shall be submitted to the Director prior to the issuance of building permits. The recommendations of the geotechnical investigations shall be fully implemented by the applicant

Sec. 10-5.505. Backfilled Excavations: Inspections.

Backfilled mining areas and slopes shall be inspected by the Director following strong seismic shaking events. Observable damage shall be reported to the landowner. If the Director determines that the damage requires repair to meet the intended use of the reclaimed land, the landowner shall perform the required repairs.

Sec. 10-5.506. Bank Stabilization Maintenance.

Financial assurances for off-channel mining operations which include mining within seven-hundred (700) feet of the active channel of Cache Creek shall include adequate funding for maintenance during the mining and reclamation period of any bank stabilization features approved for the mining permit. Maintenance of the bank stabilization features following the completion of reclamation shall be the responsibility of the property owners under the Cache Creek Resource Management Plan.

The condition of flood protection structures, bank stabilization measures, and the integrity of the land within the approved setback zone separating the mining areas and the creek channel shall be inspected annually by a Registered Civil Engineer and reported to the Director. The annual report shall include recommendations for remedial action for identified erosion problems. Following reclamation, the Director shall inspect the land separating the mining areas and creek channel every five (5) years. Observable damage shall be reported to the property owner. If the Director determines that damage requires repair to meet the intended performance of the separator, the property owner shall perform the required repairs.

Sec. 10-5.507. Drainage.

Upon the completion of operations, grading and revegetation shall minimize erosion and convey storm water runoff from reclaimed mining areas to natural outlets or interior basins. The condition of the land shall allow sufficient drainage to prevent water pockets or undue erosion. Stormwater drainage shall be designed so as to prevent flooding on surrounding properties and County rights-of-way.

Drainage and detention facilities within the proposed mining areas and vicinity shall be designed to prevent discharges to the wet pits and surface water conveyances (i.e., creeks and sloughs) from the 20-year/1-hour storm or less. For events greater than the 20-year/1-hour storm, runoff from around the perimeter of the mining areas shall be directed into surface water conveyances. Runoff from within the lowered mining area shall be directed away from wet pits to detention/infiltration areas. Drainage plans shall not rely solely on ditches and berms to direct runoff away from the wet pit. Without proper maintenance, berms and ditches may deteriorate with time and become ineffective. Drainage plans shall emphasize grading of disturbed areas that results in broad, gentle slopes that drain away from the pits. Grading plans shall be reviewed by the County to evaluate compliance with drainage plan objectives prior to project approval.

In addition, a restriction shall be recorded on the deed that requires berms and ditches to be permanently maintained in a condition consistent with the final approval. The deed restriction shall require an inspection easement which allows County staff or other authorized personnel access for the inspection of berms and ditches. If the County determines that evidence of damage to those facilities exists, the County shall require that the owner have an inspection report for the property prepared by a Registered Geologist or Registered Civil Engineer. The inspection report, including recommendations for corrective action, if needed, shall be submitted to the Director. The property owner shall be required to implement recommended corrective actions, if any.

Sec. 10-5.508. Erosion Control.

The grading of final slopes, the replacement of soil, and associated erosion control measures shall take place prior to November 1 in areas where mining has been completed. To minimize erosion, the finish grading of mining pit slopes above the average seasonal high groundwater level, with the exception of the location of designated haul roads, shall be performed as soon as practical after the mining of overburden and unsaturated aggregate resources has been completed. A drought-tolerant, weed-free mix of native grass species shall

be established on slopes prior to November 1 or alternate erosion control (mulch or netting) shall be placed on exposed soil on the slopes prior to this date. Phasing of mining to minimize the length of exposed mining slopes during the rainy season is encouraged.

Sec. 10-5.509. Fence Row Habitat.

Where fence row or field margin habitat previously existed, reestablish similar habitat as part of reclamation to agricultural use to replace and improve the wildlife habitat value of agricultural lands, allowing for the reestablishment of scattered native trees, shrubs, and ground covers along the margins of reclaimed fields. Reestablished habitat can be located in areas other than where it occurred originally. Restoration plans shall specify ultimate fence row or field margin locations, identify planting densities for trees and shrubs, and include provisions for monitoring and maintenance to ensure establishment. Restoration plans should be reviewed and approved by the TAC.

Sec. 10-5.510. Fencing.

Open wet pits shall be fenced with a forty-two (42) inch minimum, four (4) strand barbed wire fence or the equivalent (e.g., welded square "hog" fencing), prior to the commencement of excavation, during excavation, and during reclamation. Fencing may enclose the property of which mining is a part, the mining site, or both. In addition, signs shall be installed at the project site boundaries and access road, indicating that the excavation area is restricted. Additional security (e.g., gates with protected locks and wing fences to prevent drive-arounds) shall be provided at all vehicular routes. The fencing and gates shall be maintained throughout the mining and reclamation period after completion of reclamation. A requirement shall be recorded on the deed of the property which requires the landowner to maintain fences.

Sec. 10-5.511. Field Drainage.

Reclaimed agricultural surfaces shall be graded to provide adequate field gradients to allow surface/furrow irrigation of crops and allow for adequate storm water drainage.

Sec. 10-5.512. Field Releveling.

The operator shall retain a Licensed Land Surveyor or Registered Civil Engineer to resurvey any areas reclaimed to agricultural usage after the first two (2) crop seasons have been completed. Any areas where settling has occurred shall be relevelled to the field grade specified in the approved reclamation plan.

Sec. 10-5.513. Floodplain Development.

New development proposed within the reclamation plan (such as buildings, levees, or dikes) located within the floodplain shall conform to all applicable requirements of the Yolo County Flood Protection Ordinance and the Federal Emergency Management Agency (FEMA).

Sec. 10-5.514. Habitat Conservation Plan Compliance.

All reclamation plans shall be consistent with applicable components of the Yolo Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP).

Sec. 10-5.515. Habitat Plan Referral.

Proposed habitat restoration or mitigation plans for lands within the OCMP area shall be sent to the California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, and other interested parties for review and comment through the CEQA process as applicable, to ensure that the projects do not conflict with other existing habitat enhancement efforts.

Sec. 10-5.516. Lowered Elevations for Reclaimed Agricultural Fields.

The final distance between lowered surfaces reclaimed to agriculture and the average high groundwater shall not be less than five (5) feet. The average high groundwater level shall be established for each proposed mining area. The degree of groundwater level fluctuation varies with location throughout the basin and within relatively small areas (proposed mining sites). The determination of the average high groundwater level shall be conducted by a Registered Civil Engineer or Certified Hydrogeologist and shall be based on wet season water level elevation data collected at the proposed site or adjacent areas with similar hydrogeological conditions. Water level records prior to 1977 shall not be used since they would reflect conditions prior to the installation of the Indian Valley Dam. The dam caused a significant change in hydrology of the basin and data collected before its installation shall not be used in estimating current average high groundwater levels. The wells shall be adequately distributed throughout the proposed mining site to reflect spatial variation in groundwater levels and fluctuations.

Sec. 10-5.517. Mercury Bioaccumulation in Fish.

As part of each approved long-term mining plan involving wet pit mining to be reclaimed to a permanent pond, lake, or water feature, the operator shall maintain, monitor, and report to the Director according to the standards given in this section. Requirements and restrictions are distinguished by phase of operation as described below.

(a) Mercury Protocols. The Director shall issue and update as needed “Lower Cache Creek Off-Channel Pits Mercury Monitoring Protocols” (Protocols), which shall provide detailed requirements for mercury monitoring activities. The Protocols shall include procedures for monitoring conditions in each pit lake, and for monitoring ambient mercury level in the lower Cache Creek channel within the CCAP planning area, as described below. The Protocols shall be developed and implemented by a qualified aquatic scientist or equivalent professional acceptable to the Director. The Protocols shall identify minimum laboratory analytical reporting limits, which may not exceed the applicable response threshold identified in subsection (e) below. Data produced from implementing the Protocols shall meet or exceed applicable standards in the industry.

(b) Ambient Mercury Level. The determination of the ambient or “baseline” fish mercury level shall be undertaken by the County every ten years in years ending in 0. This analysis

shall be undertaken by the County for use as a baseline of comparison for fish mercury testing conducted in individual wet mining pits. The work to establish this baseline every ten years shall be conducted by a qualified aquatic systems scientist acceptable to the Director and provided in the form of a report to the Director. It shall be paid for by the mining permit operators on a fair-share basis. The results of monitoring and evaluation of available data shall be provided in the report to substantiate the conclusions regarding ambient concentrations of mercury in fish within the lower Cache Creek channel within the CCAP planning area.

(c) Pit Monitoring.

(1) Mining Phase (including during idle periods as defined in SMARA). The operator shall monitor fish and water column profiles in each pit lake once every year during the period generally between September and November for the first five years after a pit lake is created. Fish monitoring should include sport fish where possible, together with other representative species that have comparison samples from the creek and/or other monitored ponds. Sport fish are defined as predatory, trophic level four fish such as bass, which are likely to be primary angling targets and have the highest relative mercury levels. The requirements of this subsection apply to any pit lake that is permanently wet and navigable by a monitoring vessel. If, in the initial five years after the pit lake is created, the applicable response threshold identified in subsection (e) is exceeded in any three of five monitoring years, the operator shall, solely at their own expense, undertake expanded analysis pursuant to subsection (f) and preparation of a lake management plan pursuant to subsection (g).

(2) Reclamation Phase. No monitoring is required after mining has concluded, during the period that an approved reclamation plan is being implemented, provided reclamation is completed within the time specified by SMARA or the project approval, whichever is sooner.

(3) Post-Reclamation Phase. After reclamation is completed, the operator shall monitor fish and water column profiles in each pit lake at least once every two years during the period of September-November for ten years following reclamation. Monitoring shall commence in the first calendar year following completion of reclamation activities. If fish monitoring results from the post-reclamation period exceed the applicable response threshold described in subsection (e) or, for ponds that have implemented mitigation management, results do not exhibit a general decline in mercury levels, the operator shall, solely at their own expense, undertake expanded analysis pursuant to subsection (f) and preparation of a lake management plan pursuant to subsection (g).

(4) Other Monitoring Obligation. If monitoring conducted during both the mining and post-reclamation phase did not identify any exceedances of the ambient mercury level for a particular pit lake, and at the sole discretion of the Director no other relevant factors substantially support that continued monitoring is merited, the operator shall have no further obligations.

(d) Reporting.

(1) Pit Monitoring Results. Reporting and evaluating of subsection (c) pit monitoring results shall be conducted by a qualified aquatic scientist or equivalent professional acceptable to the Director. Monitoring activities and results shall be summarized in a single report (addressing all wet pit lakes) and submitted to the Director within six months following

each annual monitoring event. The report shall include, at a minimum: (1) results from subsection (b) (pit monitoring), in relation to subsection (a) (ambient mercury levels).

(2) Expanded Analysis Results. Reporting and evaluation of subsection (f) expanded analysis shall be conducted by a qualified aquatic scientist or equivalent professional acceptable to the Director. Results shall be summarized in a single report (addressing all affected wet pit lakes) and submitted to the Director within six months following each annual monitoring event. The report shall include, at a minimum, the results of the expanded analysis undertaken pursuant subsection (f).

(3) Data Sharing. For pit lakes open to the public, the Director may submit the data on mercury concentrations in pit lake fish to the state Office of Environmental Health Hazard Assessment (or its successor) for developing site-specific fish consumption advisories.

(e) Response Thresholds.

(1) Fish Consumption Advisory. If at any time during any phase of monitoring the pit lake's average sport fish tissue mercury concentration exceeds the Sport Fish Water Quality Objective, as it may be modified by the state over time (as of 2019, the level was 0.2 mg/kg), the operator shall post fish consumption advisory signs at access points around the lake and around the lake perimeter. Catch-and-release fishing may still be allowed. Unless site-specific guidance has been developed by the state's Office of Health Hazard Assessment or the County, statewide fish consumption guidance shall be provided.

(2) Mining Phase Results. If, during the mining phase of monitoring, the pit lake's average fish tissue mercury concentration exceeds the ambient mercury level for any three of five monitoring years, annual monitoring shall continue for an additional five years, and the operator shall undertake expanded analysis pursuant to subsection (f) and preparation of a lake management plan pursuant to subsection (g).

(3) Post-Reclamation Phase Results. If during the first ten years of the post-reclamation phase of monitoring, the pit lake's average fish tissue mercury concentration exceeds the ambient mercury level for any three of five monitoring years, biennial monitoring shall continue for an additional ten years, and the operator shall undertake expanded analysis pursuant to subsection(f) and preparation of a lake management plan pursuant to subsection(g).

(f) Expanded Analysis.

(1) General. If during the mining or post-reclamation phase, any pit lake's average fish tissue mercury concentration exceeds the ambient mercury level for any three years, the operator shall undertake expanded analyses. The analysis shall include expanded lake water column profiling (a minimum of five profiles per affected wet pit lake plus one or more nonaffected lakes for control purposes) conducted during the warm season (generally May through October) in an appropriate deep profiling location for each pit lake. The following water quality parameters shall be collected at regular depth intervals, from surface to bottom of each lake, following protocols identified in subsection (a): temperature, dissolved oxygen, conductivity, pH and oxidation-reduction potential (ORP), turbidity or total suspended solids, dissolved organic matter, and algal density by Chlorophyll or Phycocyanin. The initial analysis shall also include one-time collections of fine grained (clay/silt) bottom sediments from a

minimum of six well distributed locations for each affected lake, and from one or more non-affected lakes for control purposes, to be analyzed for mercury and organic content.

(2) Scope of Analysis. The purpose of the expanded analyses is to identify and assess potential factors linked to elevated methylmercury production and/or bioaccumulation in each pit lake. The scope of the expanded analyses shall include monitoring and analysis appropriate to fulfill this purpose, invoking best practices in the industry. In addition to the analyses described in subsection (f)(1) above, the analysis should also consider such factors as: electrical conductivity, bathymetry (maximum and average depths, depth-to-surface area ratios, etc.), and trophic status indicators (concentrations, Secchi depth, chlorophyll a, fish assemblages, etc.). Additional types of testing may be indicated and appropriate if initial results are inconclusive.

(3) Use of Results. The results of the expanded analyses undertaken pursuant to this subsection shall be used to inform the preparation of a lake management plan described below under subsection (g).

(g) Lake Management Activities

(1) General. If monitoring conducted during the mining or post-reclamation phases triggers the requirement to undertake expanded analysis and prepare and implement a lake management plan, the operator shall implement lake management activities designed by a qualified aquatic scientist or equivalent professional acceptable to the Director, informed by the results of subsection (f). Options for addressing elevated mercury levels may include (A) and/or (B) below at the Director's sole discretion and at the operator's sole expense.

(A) Lake Management Plan. Prepare a lake management plan that provides a feasible, adaptive management approach to reducing fish tissue mercury concentrations to at or below the ambient mercury level. Potential mercury control methods could include, for example: addition of oxygen to or physical mixing of anoxic bottom waters; alteration of water chemistry (modify pH or organic carbon concentration); and/or removal or replacement of affected fish populations. The lake management plan may be subject to external peer review at the discretion of the Director. Lake management activities shall be appropriate to the phase of the operation (e.g., during mining or post-reclamation). The Lake Management Plan shall include a recommendation for continued monitoring and reporting. All costs associated with preparation and implementation of the lake management plan shall be solely those of the operator. Upon acceptance by the Director, the operator shall immediately implement the plan. The lake management plan shall generally be implemented within three years of reported results from the expanded analyses resulting from subsection (f). If lake management does not achieve acceptable results and/or demonstrate declining mercury levels after a maximum of three years of implementation, at the sole discretion of the Director, the operator may prepare an alternate management plan with reasonable likelihood of mitigating the conditions.

(B) Revised Reclamation Plan. As an alternative to (A), or if (A) does not achieve acceptable results and/or demonstrate declining mercury levels after a maximum of three years of implementation, at the sole discretion of the Director, the operator shall prepare

and submit revisions to the reclamation plan (including appropriate applications and information for permit amendment) to fill the pit lake with suitable fill material to a level no less than five (5) feet above the average seasonal high groundwater level, and modify the end use to agriculture, habitat, or open space at the discretion of the Director, subject to Article 6 of the Mining Ordinance and/or Article 8 of the Reclamation Ordinance as may be applicable.

(2) Implementation Obligations.

(A) If a lake management plan is triggered during the mining or post-reclamation phase and the subsequent lake management activities do not achieve acceptable results and/or demonstrate declining mercury levels, the operator may propose different or additional measures for consideration by the Director and implementation by the operator, or the Director may direct the operator to proceed to modify the reclamation plan as described in subsection (g)(1)(B).

(B) Notwithstanding the results of monitoring and/or lake management activities during the mining phase, the operator shall, during the post-reclamation phase, conduct the required ten years of biennial monitoring.

(C) If monitoring conducted during the post-reclamation phase identifies three monitoring years of mercury concentrations exceeding the ambient mercury level, the operator shall implement expanded analyses as in subsection (f), to help prepare and implement a lake management plan and associated monitoring.

(D) If subsequent monitoring after implementation of lake management activities, during the post-reclamation phase, demonstrates levels of fish tissue mercury at or below the ambient mercury level for any three monitoring years (i.e., the management plan is effective), the operator shall be obligated to continue implementation of the plan and continue monitoring, or provide adequate funding for the County to do both, in perpetuity.

Sec. 10-5.518. Mining in Reclaimed Lands.

Once the reclamation plan or any portion thereof has been completed, no further surface mining operations shall be allowed within reclaimed lands, without approval of an amendment to the surface mining permit and reclamation plan.

Sec. 10-5.519. Motorized Watercraft Prohibition.

The use of motorized watercraft on any pond, lake or other body of water created as a part of the approved reclamation plan is prohibited.

Sec. 10-5.520. Operational Areas.

Operational areas and haul roads that are not required for future use of the site shall be ripped, resoiled, and prepared accordingly, to allow for replanting.

Sec. 10-5.520.1 Parkway Plan Consistency

Reclamation plans shall be developed to be consistent with, avoid conflict with, and further the goals of the Cache Creek Parkway Plan.

Sec. 10-5.520.2 Permanent Easements

Upon completion of reclamation within each phase of the project, for land that will not be dedicated or deeded to the County, the operator shall enroll each parcel reclaimed to agriculture in Williamson Act contract, or other equivalent long-term easement or deed restriction satisfactory to the County, for the purpose of protecting the agricultural use of the reclaimed land in perpetuity.

Sec. 10-5.521. Permanent Stockpiles.

There shall be no permanent piles of mine waste and/or overburden. Berms established for visual screening and noise abatement shall be contoured to conform visually with the surrounding topography.

Sec. 10-5.522. Phasing Plans.

All proposed mining and reclamation plans shall present a phasing plan for mining and reclamation activities. The phasing plan shall be structured to minimize the area of disturbed agricultural lands during each mining phase, and encourage the early completion of the reclamation of agricultural land.

Sec. 10-5.523. Planting Plans.

Site-specific planting plans shall be developed by a qualified biologist for proposed habitat reclamation projects. Restoration components of reclamation plans shall include provisions to enhance habitat for special-status species, where feasible.

Native-planted hedgerows and other vegetated buffers shall be included between restored habitat areas and adjoining farmland, in order to minimize the potential for riparian areas to serve as harbors for predators and insect pests. These buffers will also reduce the noise, dust, and spraying generated by agricultural operations, in addition to providing valuable pollinator resources that in turn could enhance agricultural production.

Sec. 10-5.524. Post-Reclamation Groundwater Monitoring.

Monitoring during the mining and reclamation period shall be a condition of the permit. The applicant shall ensure that the groundwater monitoring of wet pit mining continues for (10) years after the completion of reclamation.

Sec. 10-5.525. Farmland Conversion.

All mining permit applications shall identify the location and acreage of prime farmlands, unique farmland, and farmland of statewide significance, as shown on the State Farmland Mapping and Monitoring Program (FMMP) which, as a result of reclamation, would be permanently converted to non-agricultural uses. For each acre of farmland in these categories that would be converted to non-agricultural use, the reclamation plan shall present provisions to offset the conversion of these lands, at a ratio consistent with Section 8-2.404 (Agricultural Conservation and Mitigation Program) of the County Code. This mitigation requirement may be

satisfied using a variety of flexible options identified below so long as the total acreage of benefit is found to be equivalent to the applicable ratio and acreage required under Section 8-2.404 of the County Code, by type and amount of farmland being impacted, and so long as a minimum ratio of 1:1 of permanently protected agriculture land of equivalent or better quality/capability is achieved.

(a) Implementation of improvements, identified by a qualified soil scientist, to the agricultural capability of non-prime lands within the project site or outside the project site but within the OCMP area, that convert non-prime to prime agricultural conditions. These improvements can include permanent improvement of soil capability through soil amendments, reduction of soil limitations (such as excessive levels of toxins), or improvements in drainage for areas limited by flooding or low permeability soils.

(b) Placement of permanent conservation easements on land of equal or better quality/capability. The operator shall be encouraged to target property "at risk" of conversion to non-agricultural uses in selecting areas for permanent protection. Prior to approval of the conservation easement, the operator shall consult with the County and/or an appropriate non-profit agency to determine the relative risk of conversion, to which the proposed property might otherwise be subject. A minimum ratio of 1:1 is required in this category

(c) Dedication of land, funding, or equivalent improvements, consistent with the County's net gains goals, above and beyond the net gains benefits otherwise required under the CCAP program.

(d) Dedication of land, funding, or equivalent improvements, consistent with the Parkway Plan, above and beyond net gains benefits otherwise required under the CCAP program.

Sec. 10-5.526. Repair of Damage Due to Natural Disaster.

The cost of implementing recommendations for repair of reclaimed land caused during earthquakes or other natural events shall be met through application of contingency costs provided for by the project's financial assurances as required by SMARA.

Sec. 10-5.527. Recreational and Habitat Uses of Permanent Wet Pits.

If any permanent wet pit is proposed to be reclaimed for recreational uses and/or riparian habitat, the design shall account for fluctuations in the groundwater table.

Sec. 10-5.528. Sewage Storage Prohibition.

The use of off-channel wet pits for the storage and treatment of sewage effluent, or for landfill purposes, is prohibited.

Sec. 10-5.529. Shallow Depths.

All permanent wet pits shall be reclaimed to include valuable wildlife habitat as a beneficial use of the water lost from wet pits due to evaporation.

Sec. 10-5.530. Slopes.

All final reclaimed slopes shall have a minimum safety factor equal to, or greater than, the critical gradient as determined by an engineering analysis of the slope stability. Final slopes less than five (5) feet below the average summer low groundwater level shall be designed in accordance with the reclaimed use and shall not be steeper than 2:1 (horizontal:vertical). Reclaimed wet pit slopes located five (5) feet or more below the average summer low groundwater level shall not be steeper than 1:1 (horizontal:vertical), in order to minimize the effects of sedimentation and biological clogging on groundwater flow, to prevent stagnation, and to protect the public health.

The maximum slope angle for all final reclaimed slopes shall be determined by slope stability analysis performed by a Licensed Geotechnical Engineer or Registered Civil Engineer and submitted with any mining and reclamation application for review by the Director. The slope stability analysis shall conform with industry standard methodologies regarding rotational slope failures under static and pseudostatic (seismic) conditions. The minimum factor of safety for all design reclamation slopes located adjacent to levees or below existing structures shall not be less than 1.5 for static and 1.1 for pseudostatic (seismic) conditions. Other reclamation slopes shall meet a minimum factor of safety that is consistent with the post-reclamation use proposed for the mining area.

Sec. 10-5.531. Soil Ripping.

Where areas are to be reclaimed to agricultural usage, all A and B horizon soil shall be ripped to a depth of three (3) feet after every two (2) foot layer of soil is laid down, in order to minimize compaction.

Sec. 10-5.532. Use of Overburden and Fine Sediments in Reclamation.

Sediment fines associated with processed in-channel aggregate deposits (excavated as a result of maintenance activities performed in compliance with the CCIP) may be used in the backfill or reclamation of off-channel permanent lakes, for in-channel reshaping or habitat restoration, and/or as a soil amendment in agricultural fields provided the operator can demonstrate that no detrimental sediment toxicity exists (consistent with the state's Stream Pollution Trends Monitoring Program protocols) and fine-grained soil (<63 micron) do not exceed 0.4 mg/kg total mercury.

The operator shall use overburden and processing fines whenever possible to support reclamation activities for pit lakes. If topsoil (A-horizon soil), formerly in agricultural production, is proposed for use within a pit lake or its drainage area, the operator must sample the soils prior to placement and analyze them for pesticides and herbicides (EPA Methods 8141B and 8151A, or equivalent) as well as for total mercury (EPA Method 7471B, or equivalent). The operator shall collect and analyze samples in accordance with EPA Test Methods for Evaluating Solid Waste Physical/Chemical Methods, SW-846 (as updated). Topsoil that contains pesticides or herbicides above the Maximum Contaminant Levels for primary drinking water (California Code of Regulations), or that contains fine-grained soils exceeding on average 0.4 mg/kg total mercury shall not be placed in areas that drain to the pit lakes.

Land reclaimed to a subsequent use that includes planting of vegetation (e.g., agriculture, habitat) shall be provided an adequate soil profile (i.e., depth and texture of soil) to ensure successful reclamation. At the discretion of the Director and at the operator's sole expense, the proposed reclamation plan for the project may be peer reviewed by an appropriate expert/professional, and recommendations, if any, shall be incorporated into the project as conditions of approval.

Sec. 10-5.533. Wetland Habitat.

Off-channel excavations that are proposed to be reclaimed to permanent lakes shall include riparian and/or wetland habitat. The creation of riparian and or wetland habitat along the perimeter of permanent lakes shall include appropriate features such as: scalloped basin perimeters with extended peninsulas, islands, and stepped benches of various widths at approximately three (3) foot vertical intervals both above and below the groundwater level. Where wetlands are not proposed, either grassland and/or woodland habitat, or agricultural fields separated from the lake by a berm, shall be established using only native species in order to provide continuous habitat value around the permanent lakes.

Sec. 10-5.534. Exceptions.

Where an operator demonstrates to the lead agency that an exception to the standards specified in this article is necessary, the Commission may approve an alternative standard for inclusion in the approved reclamation plan. Exceptions shall only be approved where the strict application of the off-channel reclamation standards would deprive the operator of privileges enjoyed by other mining operators in the vicinity, due to special circumstances associated with the subject site, including size, shape, topography, location, or surroundings. Although the Commission may set alternative standards, in no case may the Commission set any standard which does not meet or exceed the policy objectives set forth in the OCMP.

Article 6. Reclamation Plan Approval Process

Sec. 10-5.601. Applications: Contents.

Except as provided for in Section 10-5.602 of this article, all documentation for the reclamation plan shall be submitted to the Director at one time. Ten (10) complete hard copies of the application, and one electronic version, shall be provided to the County. An executive summary and a table of contents for the reclamation plan shall be submitted with each application. Applications for proposed reclamation plan shall include, but shall not be limited to, the following:

(a) A narrative description of the proposed use of mined lands after reclamation has been completed and the manner in which reclamation will be accomplished, including the following information:

(1) The consistency of the proposed reclaimed use with this chapter, the General Plan, zoning, and applicable specific plans;

- (2) The manner by which contamination will be controlled in the reclaimed use;
 - (3) The manner in which affected streambed channels and streambanks will be rehabilitated to a condition minimizing erosion;
 - (4) The effect that proposed reclamation will have on future mining, both on-site and in the surrounding area;
 - (5) A time schedule of reclamation activities, showing the beginning date, completion dates for each proposed phase, and the final completion date, supported by a statement indicating that reclamation will be initiated at the earliest possible time on those portions of the site that will not be subject to further disturbance by mining;
 - (6) Separate sections demonstrating compliance of the proposal with each minimum performance standard set forth in the Regulations and Article 5 of this chapter;
 - (7) A signed statement that the person submitting the application accepts responsibility for implementing the approved reclamation plan;
 - (8) The acreages of proposed reclaimed uses, such as agriculture, wetlands, groundwater recharge, etc.;
 - (9) The methods to be used for on-site and off-site surface water drainage and erosion control after reclamation has been completed, including provisions for ensuring flood protection of the site for the one-hundred (100) year event;
 - (10) A discussion of the maximum amount of mined lands to be disturbed at any one time;
 - (11) A description of whether any portion of the project site is currently under a Land Conservation Contract (Williamson Act) and/or Agricultural Preserve, including any lands for which a Notice of Nonrenewal has been filed and the date of expiration. Proposed mined lands that meet the definition of "prime farmlands" as defined under the Williamson Act shall also be identified;
- (b) A narrative description of the type of surface mining proposed to be employed, including the following information:
- (1) The name and address of the proposed surface mine operator and the names and addresses of any persons designated by the operator to act as an agent for the applicant through the permit process;
 - (2) The anticipated quantity and type of minerals for which the proposed surface mining operation will be conducted, including the estimated maximum annual production with calculations presented in both tons mined and in tons sold;
 - (3) The proposed dates for the initiation and termination of the proposed surface mining operation;
 - (4) The maximum anticipated depth of the proposed surface mining operation;
 - (5) Evidence that all owners of a possessory interest in the lands included in the application have given authority to the applicant to conduct surface mining as proposed and to implement the reclamation plan as proposed;

(6) The acreage of the lands that will be affected by the surface mining operations (separately identifying buffer and setback areas), as well as acreages and legal descriptions of the original parcels;

(7) A description of the general geology of the region, including a detailed description of the geology of the area in which surface mining is to be conducted;

(8) The names and addresses of the owners of all surface interests and mineral interest in the lands to be mined;

(c) Site-specific technical studies, performed by qualified professionals in the appropriate area of expertise, shall provide specific proposals for inclusion in the reclamation plan to address the following potential environmental impacts:

(1) A biological analysis to evaluate the feasibility of proposed revegetation efforts, including detailed plans describing planting methods, appropriate planting times, species to be used, irrigation requirements, erosion control, weed control, and proposed success rates for plant cover and density. The analysis shall also include cross-sections for those areas proposed to be revegetated, including slopes, visual screens, and wildlife habitat. Plant materials should be collected in the vicinity of the project site in order to control the origin of the genetic stock and provide the most site-adapted ecotypes. Native seeds, plants and cuttings used for reclamation and restoration activities shall be ecotypes of Cache Creek Watershed genetic origin, including areas outside of Yolo County, and of Yolo County genetic origin when materials are used that originate from outside of the Cache Creek Watershed.

(2) If the proposed reclamation plan includes agriculture as an end use, then a soil analysis shall be submitted to evaluate the methods and feasibility of restoring those portions of the mined site to agricultural productivity, including discussions of current and reclaimed soil conditions and classifications, the types of crops grown on the lands proposed for reclamation and their historic yields for a minimum of five (5) years, and projected production of reclaimed agricultural lands. The analysis shall also include detailed plans for the removal and replacement of topsoil and overburden, including cross-sections of the areas to be reclaimed to agriculture, the depth of soils replaced, field irrigation slope grades, detention basins, and the relationship between finished field elevations and the groundwater level for the site; and

(3) A geotechnical study to evaluate the proposed final slopes to ensure that they will be stable once mining has been completed and that the slopes possess an adequate factor of safety. Measures shall be included within the study to ensure slope stability and maintenance.

(d) A site plan submitted in the form prescribed by the Planning Director, including all property proposed to be included in the reclamation plan, drawn to a scale of one inch equals one-hundred feet (1" = 100'), or other scale acceptable to the Director for larger holdings. Small-scale, reproducible copies shall be provided along with all site plans submitted. Site plans shall show the following information:

(1) All property lines, including the boundaries of all parcels proposed for mining and reclamation; the boundaries of any ownerships, leases, and/or other entitlements vested in the surface mining operator which allow surface mining and reclamation to be conducted on-site; and all Assessor parcel numbers for properties included in the application;

(2) The location of all streams, roads, railroads, and utility facilities within, or adjacent to, the lands to be reclaimed;

(3) The location and condition of any previously mined areas within the site, specifically designating those portions of the site, if any, where mining was completed prior to January 1, 1976, and which is claimed to be exempt from the requirements of this chapter;

(4) The existing and proposed topography of all reclaimed lands, including the location of the control cross-sections submitted pursuant to subsection (e) of this section;

(5) The location of all development proposed as a part of the reclaimed end use, including settling basins, drainage conveyances, equipment, fences, and other manmade structures;

(6) The depiction of separate reclamation phases;

(7) The locations for the permanent storage of overburden and waste material in any proposed berms;

(8) The proposed points of ingress and egress, access roads, driveways, and parking areas proposed as a part of the reclaimed end use; and

(9) The extent of any borrow areas, where topsoil and overburden material are excavated to be used in the reclamation of mined lands.

(e) Graphic depictions of control cross-sections located as follows and including the following information:

(1) At least three (3) control cross-sections within the area to be reclaimed, with two (2) of the cross-sections perpendicular to one another;

(2) In no event may the interval between the control cross-sections exceed twelve-hundred (1,200) feet; and

(3) The cross-sections shall identify both the existing and proposed reclaimed elevations, and shall identify the angle of reclaimed slopes.

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

(g) An estimate of the financial assurances necessary to implement the proposed reclamation plan, or phases thereof, prepared in accordance with Article 7 of this title and including the following information:

(1) An estimate of the equipment usage and manhours necessary to complete reclamation. Estimates for equipment usage shall be substantiated (e.g. the Caterpillar Performance Handbook or similar reference document) and labor requirements explained;

(2) An estimate of indirect costs, such as supervision, contingency, mobilization, profit, and overhead;

(3) The acreages of each type of area proposed in the reclamation plan (e.g., agriculture, slopes, roads, habitat, etc.), referenced to a site plan; and,

(4) An estimate of the amounts of soil, subsoil, wash sediments, and overburden to be used in reclamation, including the average distance from the soil stockpiles to the areas being reclaimed.

(h) A Land Survey or Record of Survey for all parcels included in the application which has a basis of bearing in the California Coordinate System (NAD 27 or NAD 83);

(i) An initial environmental assessment describing the potential impacts of approving the proposed reclamation plan;

(j) A list of all other applicable discretionary permits required by other public agencies. In addition to the foregoing, the Director may require such other and further information relevant to the project as needed to determine whether the proposal may affect the public health and safety; and,

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

Sec. 10-5.602. Applications: Waiver of Information.

The Director may temporarily waive any of the items of information required in Section 10-5.601. of this Article, if the following conditions apply:

(a) The gathering of such information is precluded by physical conditions existing on the site on the date of the application; and

(b) The operator has provided a statement describing the reasons for the delay, including the date by which the information required in the application will be submitted.

If granted, the Director shall notify the operator in writing, specifically describing the information which is being waived and specifying the date by which the operator shall provide the necessary information. If all other information required pursuant to this chapter has been submitted and the appropriate fees have been paid, then the Director shall receive the application for filing.

Sec. 10-5.603. Applications: Confidentiality.

Any information in the reclamation plan application which is considered by the applicant to be confidential, as provided in Article 9 of Chapter 4 of this title, shall be submitted under separate cover and shall be so marked by the Director. The proposed confidential information shall be accompanied by a statement citing the legal authority supporting the applicant's claim of confidentiality. The request for confidentiality shall be reviewed by the Director and either approved or denied.

The decision of the Director to reject or accept the claim of confidentiality shall be mailed and posted in accordance with Section 10-5.607 of this chapter. Any request for confidentiality approved by the Director shall become final within fifteen (15) days, unless appealed to the Commission, as provided in Article 11 of this chapter. The appellate hearing shall be conducted such that the information remains confidential until a decision is reached.

If the request is approved, then the confidential information shall be filed under separate cover. The contents of the confidential file shall be made available only to the Director and those persons authorized in writing by the operator and by the property owner. If the request is denied, the applicant may withdraw the information and include it with the application as a public document. Failure to submit any necessary information may result in an incomplete application.

Sec. 10-5.604. Applications: Filing.

Applications for reclamation plans shall be submitted to the Director for review and determination as to completeness. If the application is determined to be incomplete, the Director shall notify the applicant in writing within thirty (30) days of receipt of the application. The written notice shall specifically describe the information necessary to complete the application. The application shall not be processed until the Director has determined it to be complete and the appropriate fees have been paid, as required under Article 10 of this chapter. Once the application has been determined to be complete and the appropriate fees have been paid, the application shall be processed by the Director, who shall set it for a hearing pursuant to Section 10-5.606 of this article.

Sec. 10-5.605. Applications: Review.

The Director shall notify the Department in writing of any application for a reclamation plan within thirty (30) days of its being filed. The application shall also be circulated to all other agencies of jurisdiction for their review and comments in accordance with CEQA, or other applicable regulatory requirements. In addition, a notice of the filing of a reclamation plan shall be mailed to any other person with an interest in the application, who has deposited a self addressed, stamped envelope with the Agency for the purpose of receiving a notice of the filing.

Sec. 10-5.606. Applications: Public Hearing.

Once the application has been processed, the Director shall set a public hearing before the Commission to consider the proposed reclamation plan. Said hearing shall be held within six (6) months after the completion of the final EIR or within three (3) months after the completion of the negative declaration.

Sec. 10-5.607. Public Hearing: Notice.

The Director shall mail notices of the public hearing to the applicant and to all property owners and property occupants located within three-hundred (300) feet of the exterior boundaries of the property containing the proposed site. Notices shall be mailed to said property owners at the addresses shown on the latest equalized County assessment roll, as well as the occupants at the situs addresses, as well as on the County website. In addition, the Director shall publish a notice of the public hearing at least once in a newspaper of general circulation, published and circulated in the area of the proposal. All notices shall be mailed and published at least ten (10) days prior to the public hearing. The Director shall also provide such other notice as may be appropriate in the circumstances of the project.

Notices of public hearing shall state the date, time, and place set for the commencement of the hearing; shall identify the property included within the proposal; and shall generally describe the subject matter of the hearing. A metes and bounds legal description of the subject property shall not be required. Notices required by this chapter may describe the subject property using landmarks, assessor parcel numbers, and/or similar identifying information. Failure to mail or to receive such notice, as a result of mistake or inadvertence, shall not affect the validity of the hearing or the decision rendered.

Sec. 10-5.608. Public Hearing: Review.

Prior to the hearing, the Director shall submit copies of the following to the Department for a thirty (30) day review period:

- (a) A copy of the proposed reclamation plan;
- (b) A copy of the environmental document for the reclamation plan, prepared in accordance with CEQA; and
- (c) Other related documentation, as appropriate.

No reclamation plan may be approved until the Department has completed its review, or the thirty (30) day period has expired. The Director shall prepare a written response to any written comments received from the Department regarding the reclamation plan submitted. If applicable, the Director's response shall specifically address, in detail, why any comments or suggestions submitted by the Department were not accepted. The Director shall forward copies of both the Department's comments and the Director's response to the applicant.

Sec. 10-5.609. Public Hearing: Conflict of Comments.

If there is a conflict between comments submitted by a trustee or responsible agency and the comments of other reviewing agencies received during circulation of the reclamation plan, as required by CEQA, the Commission or Board shall only consider the comments of the trustee or responsible agency.

Sec. 10-5.610. Public Hearing: Findings for Approval.

The Commission or, on appeal, the Board may approve a reclamation plan pursuant to this chapter only if all of the following findings can be made:

- (a) That the proposed reclamation plan and financial assurances comply with the Act, the Regulations, and this chapter;
- (b) That the proposed mining shall be conducted pursuant to a surface mining permit granted in accordance with this title, or that the operator has vested rights to conduct surface mining pursuant to Section 2776 of the Act;
- (c) That the site, during and after reclamation, will not be detrimental to the public health and safety, giving consideration to the degree and type of present and probable future exposure of the public to the site;
- (d) That the proposed reclaimed use is consistent with the General Plan, any applicable specific plans, and the zoning of the site;

(e) That the proposed reclaimed use is compatible with the existing and probable future uses of surrounding lands, as designated in the General Plan;

(f) That the site is physically suitable for the proposed use of the land in its reclaimed condition, giving consideration, but not limited to, such factors as on-site soil conditions, local groundwater conditions, surface water flow, surrounding habitat areas, and public access to the proposed site;

(g) That the estimated financial assurances reasonably approximate the probable costs of carrying out the proposed reclamation plan; and,

(h) That a written response to the State Department of Conservation has been prepared and considered, describing the disposition of major issues raised by the Department.

Sec. 10-5.611. Public Hearing: Decision.

After considering the evidence in the public hearing, the Commission or Board shall approve, conditionally approve, or deny the application by a written decision setting forth the findings supporting the action. Approval may be granted subject to any relevant condition which the Commission may deem necessary to effectuate the purposes of the Act, the Regulations, and this chapter. Such conditions may address any or all of the findings required by Section 10-5.610 of this article. If the application is conditionally approved, the conditions shall be specified in writing.

Within ten (10) days after the decision of the Commission or Board, the Director shall mail a copy of the decision to the applicant. Copies of the decision shall also be mailed to any other person with an interest in the application, who has deposited a self-addressed, stamped envelope with the Agency for the purpose of receiving a copy of the decision.

Article 7. Financial Assurances

Sec. 10-5.701. Financial Assurances: Scope.

Prior to the commencement of any mining activities, all new and existing surface mining operations conducted within the unincorporated territory of the County shall submit sufficient financial assurances to ensure the faithful performance of the reclamation plan approved pursuant to this chapter.

Sec. 10-5.702. Financial Assurances: Form.

Surface mining operations that are not undertaken by governmental agencies shall provide financial assurances in any one or a combination of the following forms:

(a) Surety bonds;

(b) Trust funds;

(c) Irrevocable letters of credit; and/or,

(d) Such other forms of financial assurances as the State Mining and Geology Board may adopt.

In addition to those listed above, governmental agencies undertaking surface mining operations may provide financial assurances in the following forms:

- (e) Pledges of revenue; and/or,
- (f) Budget set asides.

Financial assurances shall be issued by a corporate surety authorized to do conduct surety business in the State of California and shall be made payable to the "County of Yolo or the Department of Conservation." Financial assurances that were approved by the County prior to January 1, 1993, and were made payable to the State Geologist shall be considered payable to the Department for the purposes of this chapter.

The form of such financial assurance instruments shall be subject to the approval of the County Counsel who may require such additional provisions as are necessary to ensure the performance of the obligations.

Sec. 10-5.703. Financial Assurances: Pledges of Revenue.

The action approving a pledge of revenue shall take the form of a resolution or other appropriate document from the governing body of the agency responsible for reclamation. The resolution or document shall remain in effect continuously until the approved reclamation plan has been determined to be completed by the Director, pursuant to this chapter. The pledge of revenue shall consist of the following items:

- (a) The resolution or document establishing the pledge of revenue;
- (b) The types and sources of pledged revenue;
- (c) The period of time that each source of revenue is pledged to be available;
- (d) The estimated amount of financial assurances necessary to complete the approved reclamation plan; and,
- (e) An authorization for the County or the Department to use the proceeds of the pledge to complete reclamation, if the operator is incapable of performing reclamation, as determined in Article 9 of this chapter.

The government agency may pledge the following types of revenue that it controls, as long as the revenue is available in a timely manner to perform the necessary reclamation work:

- (f) Fees, rents, or other charges;
- (g) Tax revenues within statutory limitations; and/or
- (h) Other guaranteed revenues that are acceptable to the lead agency and the State Mining and Geology Board.

If the government agency ceases at any time to retain control of its ability to allocate pledged revenue to complete reclamation, the governing body of the agency shall notify both the lead agency and the Department within sixty (60) days after control lapses.

Sec. 10-5.704. Financial Assurances: Budget Set Asides.

Government agencies may also submit financial assurances in the form of a specific fund or line item set aside to provide funds for reclamation. The budget set aside shall remain in effect continuously until the approved reclamation plan has been determined to be completed by the Director, pursuant to this chapter. The budget set aside shall consist of the following items:

- (a) A resolution or other appropriate document establishing the set aside or line item including proof of approval by the governing body or appropriate official of the government agency;
- (b) The types and sources of specific funds;
- (c) The period of time that each funding source is to be available;
- (d) The estimated amount of financial assurances necessary to complete the approved reclamation plan; and,
- (e) The authorization for the County or the Department to use the funds to complete reclamation, if the operator is incapable of performing reclamation, as determined in Article 9 of this chapter.

Sec. 10-5.705. Financial Assurances: Term.

Financial assurances shall remain in effect until the County has determined that the reclamation plan has been completed as approved. Financial assurances may be made renewable for periods of at least one year. However, the failure of an operator to renew any financial assurance before its expiration date shall be considered a violation of this chapter. New or renewed financial assurances shall be submitted to the County prior to the expiration date of the existing financial assurances.

Sec. 10-5.706. Financial Assurances: Calculations.

The amount of the financial assurances shall be equal to one-hundred percent (100%) of the estimated cost of implementing the approved reclamation plan. The estimated cost of reclamation shall be calculated by the operator and shall be based on the following factors:

- (a) An analysis of the physical activities and materials necessary to implement the approved reclamation plan;
- (b) The lead agency's unit costs for each of the specified activities, or the unit costs for a third party contract, if applicable. When calculating the unit costs of reclamation activities, prevailing wage rates shall not be used;
- (c) The number of units for each of the specified activities; and,
- (d) An amount to cover contingency costs, not to exceed ten percent (10%) of the reclamation costs estimated above.

The costs associated with the completion of permitted mining shall not be used in the calculation of financial assurances.

The salvage value of buildings and equipment left on-site as a result of abandonment by the operator may be included to offset the costs of reclamation in the calculation of financial assurances.

Sec. 10-5.707. Financial Assurances: Phasing.

If a phased reclamation plan is approved, the initial amount of the financial assurances shall be no less than one-hundred percent (100%) of the total cost of all reclamation work to be done in the first approved phase. Before mining commences in the any subsequent phase,

additional financial assurances shall be submitted in an amount equal to one-hundred percent (100%) of the total cost of reclamation for that phase.

Sec. 10-5.708. Financial Assurances: Annual Adjustments.

As a part of the annual report, each operator shall submit a revised estimate of financial assurances for the following year. Financial assurances may be adjusted annually by the Director to account for any of the following factors:

- (a) The addition of new permitted lands to be mined in the following year;
- (b) Previously mined lands which have been completely reclaimed in accordance with the approved reclamation plan; and,
- (c) The increased labor and/or material costs of reclamation.

Any decision to either increase or decrease financial assurances shall become final within fifteen (15) days, unless appealed to the Planning Commission within that fifteen (15) day period, as provided in Article 11 of this chapter.

The review of existing financial assurances shall not be considered a project within the meaning of CEQA, pursuant to the exemption granted under Section 2770(c) of the Act. (§ 1, Ord. 1191, eff. September 5, 1996, as amended by § 2, Ord. 1407, eff. April 28, 2011).

Sec. 10-5.709. Financial Assurances: Review.

The Director shall submit a copy of all new and revised financial assurance estimates and any supporting documentation to the Department for a forty-five (45) day review period. No financial assurances may be approved until the Department has completed its review. The Director shall prepare a written response to any written comments received from the Department regarding the financial assurances submitted. If applicable, the Director's response shall specifically address, in detail, why any comments or suggestions submitted by the Department were not accepted. The Director shall forward copies of both the Department's comments and the Director's response to the operator.

Sec. 10-5.710. Financial Assurances: Transfer.

If a surface mining operation is sold or ownership is transferred to another person, the existing financial assurances shall remain in full force and effect and shall not be released until new financial assurances are secured by the new owner and approved by the County.

Sec. 10-5.711. Financial Assurances: Release.

The mining operator shall notify the Director in writing when all or any portion of the required reclamation work is completed. Within sixty (60) days after notification to the County by the operator, the Director shall inspect the site in order to determine whether the site or the portion thereof complies with the approved reclamation plan. If it is determined that reclamation has not been completed pursuant to the approved reclamation plan, then the Director shall notify the operator in writing, specifically describing the remedial steps required for compliance. If it is determined that reclamation has been completed as approved, then the Director shall place the matter on the agenda of the Planning Commission for action within thirty (30) days. The Planning

Commission may release all or a portion of the financial assurances, as appropriate. The Director shall send written notification of the proposed release of financial assurances to both the operator and the Department prior to the Planning Commission action.

Sec. 10-5.712. Financial Assurances: Disasters.

Prior to final approval of reclamation by the County and the release of financial assurances, if a reclaimed site or any reclaimed phases thereof have been adversely affected by a disaster, such as flood, earthquake, or other natural occurrence beyond the operator's control, then the Director shall take the following factors into account in determining the operator's responsibility:

- (a) The extent to which the operator had completed reclamation prior to the natural occurrence;
- (b) The extent to which the reclamation work has been destroyed by the natural occurrence;
- (c) The effect of the natural occurrence on the public health and safety;
- (d) The degree to which the site can be reclaimed naturally without human intervention;
- (e) The specific reasons a particular monitoring period was established for reclamation; and,
- (f) The site characteristics, reclamation program, and the proposed end use. The operator may not be held responsible for the adverse impacts caused by a natural occurrence if the reclamation has been approved and the financial assurances released by the County.

Article 8. Amendments and Modifications to Approved Reclamation Plans

Sec. 10-5.801. Amendments and Modifications: Purpose.

The purpose of this article is to provide procedures for changing the conditions of approval or project description (as described in the application and accompanying analyses) to account for unanticipated changes in the reclamation, site characteristics, regulations, or other aspects of the approved reclamation plan.

Sec. 10-5.802. Amendments: Applications.

Applications for amendments to of previously approved reclamation plans shall be submitted to the Director, on forms provided by the Agency, and shall be accompanied by the appropriate fees, as determined in Article 10 of this chapter. Such applications shall be processed pursuant to the procedures set forth in Article 6 of this chapter.

Sec. 10-5.803. Amendments: Exceptions and Changes.

Proposed exceptions to the reclamation standards may not be included as part of any application for a minor modification. Any changes in the conditions of approval or the amount of surface area and/or depth to be disturbed shall also be treated as a substantial deviation from

the approved plan. Such changes and exceptions shall be processed as an amendment to the reclamation plan.

Sec. 10-5.804. Minor Modifications.

The Director may approve minor modifications of reclamation plans approved by the Commission pursuant to this chapter. Minor modifications may only be approved if it is found that such changes would be consistent with the conclusions of the EIR or other applicable environmental document, and that such changes will not have a significantly adverse effect on the successful achievement of the approved reclamation plan. Such modifications shall be noted on the approved plans and shall be initialed by the Director.

The decision of the Director shall be mailed and posted in accordance with Section 105.607 of this chapter. Any minor modification approved by the Director shall become final within fifteen (15) days, unless appealed to the Board, as provided in Article 11 of this chapter.

Sec. 10-5.805. Interim Management Plans: Scope.

Anytime that the annual production of a surface mining operation is reduced for a period of one year or more by more than ninety percent (90%) of its maximum annual mineral production within any of the last five years during which an interim management plan has not been approved, then the operator shall submit an interim management plan to provide measures for maintaining the site until normal production is resumed. The interim management plan shall be considered an amendment to the approved reclamation plan, but not just cause to re-examine an approved reclamation plan and/or cause the plan to be subsequently amended. An interim management plan shall not be considered a project within the meaning of CEQA, pursuant to the exemption granted under Section 2770 of the Act.

Sec. 10-5.806. Interim Management Plans: Application.

Within ninety (90) days of a surface mining operation becoming idle, the operator shall submit an application for an interim management plan to the County. A proposed interim management plan shall be reviewed by the Director within thirty (30) days of receipt to determine whether the application complies with the requirements of this article. If the application is complete, then within ninety (90) days of the receipt of the application, a public hearing shall be held before the Commission to approve or deny the interim management plan in accordance with the procedures set forth in Article 6 of this chapter.

The interim management plan application shall include, at a minimum, the following:

- (a) A statement describing why the mining operation is idle, include a description of those conditions necessary to reactivate the operation;
- (b) The requested duration of the interim management plan (not to exceed five (5) years);
- (c) A description of the measures to be taken to maintain site security;
- (d) An analysis prepared by a Registered Civil Engineer describing interim slope angles, slope stability, and erosion control measures to be implemented during the interim period;

- (e) A description of the equipment to be retained on the site;
- (f) A plan prepared by a qualified biologist describing how revegetation efforts would be maintained in the interim period; and
- (g) A plan showing the extent of mined areas, areas where reclamation has not yet been completed, internal haul roads and parking areas, stockpile locations, and equipment storage.

In addition to the foregoing, the Director may require such other and further information relevant to the project as needed to determine whether the proposal may affect the public health and safety.

Sec. 10-5.807. Interim Management Plans: Incomplete.

If the application does not comply with the requirements of this article, then the Director shall notify the applicant in writing, describing any deficiencies in the plan. The applicant shall have thirty (30) days to submit a revised plan correcting the deficiencies noted by the Director. If the revised application is complete, then within sixty (60) days of the receipt of the revised application, a public hearing shall be held before the Commission to approve or deny the interim management plan in accordance with the procedures set forth in Article 6 of this chapter.

Sec. 10-5.808. Interim Management Plans: Review.

The Director shall submit a copy of the interim management plan to the Department for a 45-day review period. No interim management plan may be approved until the Department has completed its review. The Director shall prepare a written response to any written comments received from the Department regarding the interim management plan. If applicable, the Director's response shall specifically address, in detail, why any comments or suggestions submitted by the Department were not accepted. The Director shall forward copies of both the Department's comments and the Director's response to the operator.

Sec. 10-5.809. Interim Management Plans: Appeal.

The decision of the Commission may be appealed to the Board of Supervisors within fifteen (15) days of the date of the decision, pursuant to Article 11 of this chapter.

Sec. 10-5.810. Interim Management Plans: Term.

Approved interim management plans shall remain in effect for a period not to exceed five (5) years. Prior to the expiration of the interim management plan, the Commission shall take one of the following actions:

- (a) Renew the interim management plan for an additional period not to exceed five years, which may be renewed for one additional five-year renewal period at the expiration of the first five-year renewal period, if the Commission finds that the surface mining operator has complied fully with the interim management plan; or
- (b) Require the operator to commence reclamation in accordance with its approved reclamation plan.

The operator shall notify the Director in writing prior to the reactivation of the surface mining operation.

Sec. 10-5.811. Interim Management Plans: Financial Assurances.

Financial assurances shall remain in effect during the term of the interim management plan and any extensions granted thereto.

Sec. 10-5.812. Interim Management Plans: Abandonment.

Unless the operation has a pending or approved interim management plan, or an appeal of the interim management plan is pending before the Board of Supervisors, any surface mining operation which remains idle for more than one year shall be considered abandoned. All abandoned mining operations shall commence and complete reclamation in accordance with the approved reclamation plan, pursuant to Article 9 of this chapter.

Sec. 10-5.813. Interim Management Plans: Conditions.

All applicable conditions of approval shall remain in effect during the interim period. The Commission may impose additional conditions of approval necessary to safeguard the environment and the public health and safety.

Sec. 10-5.814. Interim Permit Review.

Every ten years after a reclamation plan has been approved, the Commission shall hold a public hearing in accordance with Article 5 of this chapter, for the purpose of amending the plan to bring it into conformance with applicable future environmental regulations and statutory changes. The Commission shall evaluate the plan to determine if there have been any subsequently adopted environmental regulations or statutory provisions which should be made applicable to the reclamation plan, even if such laws themselves are not made retroactive to affect the plan. For the purposes of this article, an environmental regulation or statutory provision is one that is promulgated by a responsible or trustee agency that has authority for a particular natural resource (e.g., Yolo-Solano Air Quality Management District, California Department of Fish and Wildlife, California Department of Conservation, Regional Water Quality Control Board, State Lands Commission, State Reclamation Board, etc.), including the County of Yolo.

As a part of this review, the Commission shall also consider whether per-ton fees to which the permit is subject, reasonably reflect actual costs. The fees shall be adjusted up or down accordingly.

Should the Commission decide to incorporate into the reclamation plan new regulatory or statutory provisions that were not available at the time of project approval, said provisions shall be applied as an amendment to the plan and processed in accordance with Article 6 of this chapter. The decision of the Commission may be appealed, in accordance with Article 10 of this chapter.

Article 9. Abandonment

Sec. 10-5.901. Abandonment: Hearing.

If at any time, the Director determines that the operator is financially incapable of performing the required reclamation, or has abandoned the surface mining operation without completing the approved reclamation plan, or has failed to observe an order to comply, then a public hearing shall be held before the Commission as provided for in Article 6 of this chapter.

Sec. 10-5.902. Abandonment: Notice.

If the Commission determines that the operator is financially incapable of performing the required reclamation, or has abandoned the surface mining operation without completing the approved reclamation plan, or has failed to observe an order to comply, then the Director shall provide written notification to the operator by personal service or certified mail that the County intends to forfeit the financial assurances. The written notification shall include the specific reasons for the forfeiture.

Sec. 10-5.903. Abandonment: Forfeit of Financial Assurances.

The operator shall be allowed sixty (60) days to commence reclamation in accordance with the approved reclamation plan. Reclamation shall be completed within the time specified in the approved reclamation plan, or at a time mutually agreed to by the Director and the operator.

If the operator fails to begin reclamation within the sixty (60) days after notification, or otherwise fails to complete the approved reclamation plan within the time specified, then the Director may demand performance of any surety company issuing the financial assurances and commence reclamation of the site.

Sec. 10-5.904. Abandonment: Reclamation.

The following persons may enter the mine site and any adjacent property of the operators to plan or conduct all or any of the work described in the approved reclamation plan:

- (a) Officers, employees, and agents of the County;
- (b) Contractors hired by the County, as well as their subcontractors and agents; and
- (c) Surveyors, engineers, and other consultants retained by the County.

These persons may bring onto the site and use thereon any and all equipment and machines necessary for completing the reclamation plan, and may use any equipment, supplies, earth, or other materials abandoned by the operator to perform required reclamation work. The County shall follow the approved reclamation plan and all applicable permit conditions of approval in completing reclamation work.

Sec. 10-5.905. Abandonment: Use of Financial Assurances.

All or any portion of the financial assurances shall be deposited into a separate fund held by the County for the costs and reasonable expenses and fees associated with completing the approved reclamation plan. In no event shall the financial assurances be used for any other

purpose. If, after the Director has determined that the approved reclamation plan has been completed and all costs incurred by the County in performing such work have been accounted for, then any remaining monies from the financial assurances shall be refunded to the operator or the surety company, as their interests may appear, in accordance with Section 10-5.711 of this chapter. The operator shall be held responsible for all costs incurred by the County in completing the reclamation plan which exceed the amount of the forfeited financial assurances. Costs accrued by the County which exceed the amount of financial assurances shall be paid according to a schedule agreed to by the operator and the Director.

Article 10. Fees

Sec. 10-5.1001. Fees: Applications.

Each application for a reclamation plan and/or approval of financial assurances or any amendments and modifications thereto shall be accompanied by the appropriate fee as determined by the Master Fee Resolution adopted by the Board.

Sec. 10-5.1002. Annual Reviews.

Each operator individually shall be responsible for the payment of fees to cover the costs incurred by the County in annually inspecting the facilities of that operator, pursuant to Section 10-5.1203 of this chapter, as determined by the Master Fee Resolution adopted by the Board and any and all costs associated with the administration of Article 12. Said fee shall be due within thirty (30) days of written notification by the Director.

Failure to pay the above fees in a timely manner shall be considered a violation and may be enforced under the provisions of Article 12 of this chapter.

Article 11. Appeals

Sec. 10-5.1101. Appeals: Planning Commission.

The action of the Director on any decision made pursuant to this chapter shall be final unless, within fifteen (15) days after such action, any person with appropriate legal standing files a written appeal, and pays the appropriate fee to the clerk of the Commission. The timely filing of an appeal shall stay the Director's decision, which shall serve as a recommendation to the Commission. All such appeals shall reference the decision of the Director and shall specifically describe the grounds for the appeal.

Sec. 10-5.1102. Planning Commission: Hearings.

The hearing on an appeal of a decision by the Director shall be scheduled within sixty (60) days from when the appeal was filed. The Director shall provide notice of the appeal hearing, pursuant to Section 10-5.607 of this chapter. Upon hearing the appeal, the Commission shall either affirm, reverse, or modify the appealed decision, or refer the matter back to the Director for further action.

A decision of the Commission may be appealed to the Board, pursuant to this article. The appeal rights under this section shall be exercised prior to filing an appeal pursuant to Section 10-5.1107 of this chapter.

Sec. 10-5.1103. Appeals: Board of Supervisors.

The action of the Commission on any decision made pursuant to this chapter shall be final unless, within fifteen (15) days after such action, any person with appropriate legal standing files a written appeal, and pays the appropriate fee, to the Clerk of the Board. The timely filing of an appeal shall stay the Commission's decision, which shall serve as a recommendation to the Board. All such appeals shall reference the decision of the Commission and specifically describe the grounds for the appeal.

Sec. 10-5.1104. Board of Supervisors: Hearing.

The hearing on an appeal of a decision by the Commission shall be scheduled within sixty (60) days from when the appeal was filed. The Clerk of the Board shall provide notice of the hearing pursuant to Section 10-5.607 of this chapter. Upon hearing the appeal, the Board may either affirm, reverse, or modify the appealed decision, or refer the matter back to the Commission for further action. The appeal rights under this section shall be exercised prior to filing an appeal pursuant to Section 10-5.1107 of this chapter.

If the Board fails to take one of the above actions, the appeal shall be considered denied without prejudice. Appeals that are denied without prejudice may be reconsidered at a new public hearing, noticed in accordance with Section 10-5.605 of this chapter.

Sec. 10-5.1105. Appeals: Scope.

Any appeal of a decision or action shall serve only as an appeal of the specific action or issue identified, based on the grounds and issues described in the appeal. The appellate body shall consider the record of the decision being appealed. New evidence not previously introduced in the record of the decision may not be presented at the hearing regarding the appeal.

Sec. 10-5.1106. Appeals: Withdrawal.

Appeals to either the Commission or the Board may be withdrawn at any time.

Sec. 10-5.1107. Appeals: State Mining and Geology Board.

An appeal of a decision by the Board may be filed with the State Mining and Geology Board, if the appellant can substantiate, based on the record, that the County has failed to take any of the following actions:

- (a) Act according to due process;
- (b) Consider the specific applicable requirements of Sections 2772, 2773, and 2773.1 of the Act or this chapter in the denial of a reclamation plan or financial assurances;
- (c) Act within a reasonable time after receiving a completed application; or
- (d) Review and approve reclamation plans or financial assurances pursuant to Section 2770 of the Act.

If the State Mining and Geology Board remands a decision pursuant to this section, then the Board shall reconsider their decision in accordance with the procedures described in this article.

Sec. 10-5.1108. Appeals: Judicial Review.

When giving notice to the applicant of its decision to deny, the Board shall notify the applicant that the time within which judicial review must be sought is governed by Section 1094.6 of the State Code of Civil Procedure.

Article 12. Inspections: Notices of Violations

Sec. 10-5.1201. Inspections: Purpose.

The Director shall make such necessary inspections and investigations of all surface mining reclamation activities within the unincorporated portion of the County in order to accomplish any of the following purposes:

- (a) To determine compliance with this chapter and the Act;
- (b) To determine compliance with the conditions of reclamation plan approved pursuant to this chapter;
- (c) To investigate the environmental effects which reclamation work may be causing to the surrounding area; and,
- (d) To verify the information submitted in any application or any annual report submitted pursuant to this title.

Sec. 10-5.1202. Inspections: Annual.

At least once every year, the Director shall conduct an inspection of each surface mining operation to determine whether the operator is in compliance with the Act, the Regulations, and this chapter. Each inspection shall be conducted within six (6) months after receipt by the County of the operation's annual report, submitted pursuant to Section 2207 of the Public Resources Code, and may be combined with other site inspections, as appropriate.

Sec. 10-5.1203. Annual Inspections: Notification.

All annual inspections shall be documented using forms adopted by the Department. The Director shall notify the Department of the inspection within ninety (90) days after it has been completed. Said notice shall include the following:

- (a) A statement regarding whether the operation is in compliance with the Act and this chapter. Any violations of either the Act or this chapter shall be specifically described;
- (b) The completed inspection forms;
- (c) A description of any pending reviews or appeals of surface mining permits, reclamation plans, financial assurances, amendments or modifications thereto, or interim management plans pertaining to the operation;
- (d) Aspects of the reclamation, if any, that were found to be inconsistent with the Act but were corrected before the submission of the inspection form to the Department;

- (e) Aspects of the reclamation, if any, that were found to be inconsistent with this chapter but were corrected before the submission of the inspection form to the Department;
 - (f) A statement describing the County's intended response to any aspects of the reclamation found to be inconsistent with the Act but were not corrected before the submission of this inspection form to the Department; and
 - (g) Any supporting documentation.
- Copies of the notice shall also be provided to the operator.

Sec. 10-5.1204. Inspections; Designee.

Inspections shall be conducted by a state-licensed geologist, state licensed civil engineer, state-licensed landscape architect, state-licensed forester, or a qualified County employee, who is experienced in mined land reclamation (as described in the Act and related regulations) and experienced in activities governed by the Act, and who has not been employed by the mining operation in any capacity during the previous twelve (12) months.

Sec. 10-5.1205. Annual Compliance Review.

An annual report of reclamation operations shall be filed by each operator and reviewed by the Commission in a public hearing in order to determine compliance with the approved reclamation plan, in accordance with Article 7 of Chapter 4 of this title.

Sec. 10-5.1206. Violations: Notice.

Whenever the Director has reasonable cause to believe that mining reclamation activities are in violation of the Act or the Regulations; this chapter; any term or condition of a reclamation plan; or development agreement ("violation"), the following procedure shall be followed:

(a) In the event of a violation of the Act or Regulations, or a violation that in the sole direction of the Director poses an imminent and substantial endangerment to the public health, safety, or the environment, the following procedures shall be followed:

(1) The Director shall provide written notice to the operator at the time of inspection or as soon thereafter as the violation is made known. The operator shall be provided 30 days to correct. If correction is not or cannot be achieved within 30 days, the operator and the County may enter into a stipulated order to comply, with notice sent to the Department. A stipulated order to comply shall include a schedule and time for compliance that the County correct the violation.

(2) If the operator does not comply with a notice issued pursuant to (a)(1), above, within 30 days of being served the notice the County may issue an Order to Comply, pursuant to Section 10-5.1207 of this Chapter.

(b) If the Director determines that a potential violation other than a violation of the Act, does not pose an imminent and substantial endangerment to public health, safety, or the environment the following procedure shall be followed:

(1) The Director shall provide written notice to the operator documenting the potential violation ("condition of concern"). The Director may request additional information from the operator to assess the site conditions and determine if a violation exists. The operator

shall be provided 30 days to respond to this initial notice. If the requested information is not received within 30 days, the Director shall proceed with an order to comply as set forth in Section 10-5.1207. An extension of time may be requested by the applicant in cases where compilation of the information may take longer, but such extension shall not exceed 60 days.

(2) If the operator resolves the condition of concern within the timeframe set in(b)(1) above, the Director shall verify by conducting a site inspection or review of information provided by the operator, whichever is appropriate. The Director shall notify the operator in writing that the condition of concern has been satisfactorily resolved.

(3) If the Director determines the condition of concern is still active after the timeframe described in 3(b)(1), the Director shall submit a notice to the operator requiring submittal of a Correction Plan. The Correction Plan to be provided by the operator shall at a minimum describe in detail the sequence, methods, and timeline necessary for each step to correct the conditions of concern identified by the Director. The Correction Plan must be received within 30 days from the date of notification. The Director shall review and accept or request changes to the Correction Plan within 30 days of receipt. If changes or clarification is requested, the operator shall then be provided another 30 days to finalize and submit the final Correction Plan and commence implementation. Implementation must begin immediately (unless mutually agreed upon and documented in the Correction Plan) and must be fully completed no later than one year from the date of submission of the final Correction Plan.

(4) Once the Correction Plan is finalized, the Director shall forward the Correction Plan to the Planning Commission as an informational/correspondence item with next the Planning Commission agenda packet. No formal action shall be taken by the Planning Commission on the Correction Plan.

In the event that the procedure set forth above does not result in correction of a violation, an order to comply shall be served to the operator pursuant to Section 10-5.1207.

Sec. 10-5.1207. Violations: Order to Comply.

If the violation continues after the timeframes specified in Section 10-5.1206, the Director shall issue an order to comply requiring that the violation be corrected or abated and that the operator come into compliance with the applicable law, regulation, or requirement. The order to comply shall be delivered by personal service or certified mail, with a copy sent to the Department. An order to comply issued pursuant to this Section shall take effect 30 days following the service of the order to comply unless within those 30 days the operator appeals the order and requests a hearing before the Planning Commission. The order shall specifically describe both the violation(s) and the remedial steps required for compliance. The order shall specify a time by which compliance must be completed, as determined by the Director. A reasonable amount of time shall be allowed to bring the operation into compliance, taking into account the seriousness of the violation, the potential harm to public health, safety, and the environment, and any good faith efforts to comply with the applicable requirements.

An appeal filed pursuant to this Section shall be noticed and heard at a public hearing within 45 days of the filing of the appeal or a longer period as may be mutually agreed upon by

the operator and the County. Public notice of such hearing shall be given as set forth in Section 10-5.607 of this chapter.

Sec. 10-5.1208. Violations: Hearing.

Upon filing of an appeal pursuant to Section 10-5.1207, the Planning Commission shall conduct a public hearing to consider the violation. Before the close of the hearing, the Commission shall take one of the following actions:

- (a) Affirm the order to comply of the Director;
- (b) Remove any of the violations or remedy steps required for compliance, and affirm the order as modified; or,
- (c) Vacate the order to comply.

If the order of the Director is affirmed, the Commission's decision shall become final, unless an appeal is filed with the Board within fifteen (15) days after the decision, pursuant to Article 1 of this chapter.

Sec. 10-5.1209. Violations: Abandonment.

If an operator fails to abide by the requirements of an order to comply, the Director shall initiate procedures to revoke the operator's permit(s) and forfeit the operator's financial assurances in accordance with Article 9 of this chapter.

Sec. 10-5.1210. Violations: Administrative Penalties.

If the operator fails to comply with an order to comply, issued pursuant to this article, the Commission may issue an order imposing administrative penalties of up to, but not more than five thousand dollars (\$5,000) per day for noncompliance with this article in addition to noncompliance with any other article or chapter, retroactive to the original date of noncompliance. When determining the amount of the penalty, the Commission shall consider, but may not be limited to, the following factors:

- (a) The nature, circumstances, extent, and gravity of the violation(s);
- (b) Any prior history of violations; and,
- (c) The degree of culpability by the operator.

The order establishing administrative penalties shall be served by certified mail to the operator. Any such order shall become effective upon issuance and the penalties imposed therein shall be paid to the Director within fifteen (15) days. If the order imposing administrative penalties is appealed to the Board, the operator shall deposit any amounts due pursuant to Section 10-11.10 with the County Treasury in an account earning interest at the County pooled rate. Any appeal to the Board must be filed with the Clerk of the Board within fifteen (15) days after the order is first mailed. The Board shall hear the appeal de novo.

Any decision by the Board to order administrative penalties shall become effective within thirty (30) days, unless the operator files a petition for writ of mandate in the superior court for review of the order. If no writ petition is filed, then the order setting administrative penalties shall not be subject to review by any court or agency. The order establishing administrative penalties shall be served by certified mail to the operator.

Penalties collected by the Director shall only be used to cover the reasonable costs incurred by the County in administering either the Act or Chapters 3, 4, and 5 of Title 10 of this Code.

Sec. 10-5.1211. Violations: Public Nuisance.

Any mining reclamation activities in violation of this title, or in violation of any reclamation plan and/or financial assurances approved pursuant to this title, shall be considered a public nuisance. If the operator fails to comply with an order to comply, issued pursuant to this article, the Director may refer the violation to County Counsel for abatement or the District Attorney for criminal remedies.