

AMENDED IN ASSEMBLY APRIL 14, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1846

Introduced by Assembly Member V. Manuel Perez
*(Coauthors: Assembly Members Blakeslee, Chesbro, Hill, Huffman,
and Skinner)*

February 12, 2010

An act to amend Sections 21159 and ~~21159.1~~, 21159.1, and 21159.4 of the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1846, as amended, V. Manuel Perez. Environment: expedited environmental review: climate change regulations.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

CEQA requires specified state agencies to perform, at the time of adoption of a rule or regulation requiring the installation of pollution control equipment *or a performance standard or treatment requirement*,

an environmental analysis of the reasonably foreseeable methods of compliance. CEQA authorizes the use of a focused environmental impact report for a project that ~~is~~ *consists* solely of the installation of pollution control equipment required by the specified state agencies.

This bill would additionally require that the above environmental analysis be performed for a rule or regulation that requires the installation of pollution control equipment or a performance standard or treatment requirement adopted pursuant to the California Global Warming Solutions Act of 2006, *including those for rules and regulations adopted by the California Energy Commission and the California Public Utilities Commission*. The bill would authorize the use of the focused environmental impact report for a project that reduces greenhouse gas emissions in compliance with a rule or regulation adopted pursuant to the California Global Warming Solutions Act of 2006.

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

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

1 SECTION 1. It is the intent of the Legislature in enacting this
2 measure to conform and clarify existing law. This measure is not
3 intended to supersede existing law.

4 SEC. 2. Section 21159 of the Public Resources Code is
5 amended to read:

6 21159. (a) An agency listed in Section 21159.4 shall perform,
7 at the time of the adoption of a rule or regulation requiring the
8 installation of pollution control equipment, or a performance
9 standard or treatment requirement, including a rule or regulation
10 that requires the installation of pollution control equipment or a
11 performance standard or treatment requirement pursuant to the
12 California Global Warming Solutions Act of 2006 (Division 25.5
13 (commencing with Section 38500) of the Health and Safety Code),
14 an environmental analysis of the reasonably foreseeable methods
15 of compliance. In the preparation of this analysis, the agency may
16 utilize numerical ranges or averages where specific data is not
17 available; however, the agency shall not be required to engage in
18 speculation or conjecture. The environmental analysis shall, at
19 minimum, include all of the following:

1 (1) An analysis of the reasonably foreseeable environmental
2 impacts of the methods of compliance.

3 (2) An analysis of reasonably foreseeable feasible mitigation
4 measures.

5 (3) An analysis of reasonably foreseeable alternative means of
6 compliance with the rule or regulation.

7 (4) For a rule or regulation adopted pursuant to the California
8 Global Warming Solutions Act of 2006 (Division 25.5
9 (commencing with Section 38500) of the Health and Safety Code),
10 the analysis shall also include reasonably foreseeable greenhouse
11 gas emission impacts of the methods of compliance identified as
12 required by this section.

13 (b) The preparation of an environmental impact report at the
14 time of adopting a rule or regulation pursuant to this division shall
15 be deemed to satisfy the requirements of this section.

16 (c) The environmental analysis shall take into account a
17 reasonable range of environmental, economic, and technical factors,
18 population and geographic areas, and specific sites.

19 (d) This section does not require the agency to conduct a
20 project-level analysis.

21 (e) For purposes of this article, the term “performance standard”
22 includes process or raw material changes or product reformulation.

23 (f) This section is not intended, and may not be used, to delay
24 the adoption of any rule or regulation for which an analysis is
25 required to be performed pursuant to this section.

26 SEC. 3. Section 21159.1 of the Public Resources Code is
27 amended to read:

28 21159.1. (a) A focused environmental impact report may be
29 utilized if a project meets all of the following requirements:

30 (1) The project, including a project that reduces greenhouse
31 gases to comply with a rule or regulation adopted pursuant to the
32 California Global Warming Solutions Act of 2006 (Division 25.5
33 (commencing with Section 38500) of the Health and Safety Code),
34 consists solely of the installation of pollution control equipment
35 required by a rule or regulation of an agency listed in Section
36 21159.4 and other components necessary to complete the
37 installation of that equipment.

38 (2) The agency certified an environmental impact report on the
39 rule or regulation or reviewed it pursuant to a certified regulatory
40 program, and, in either case, the review included an assessment

1 of growth inducing impacts and cumulative impacts of, and
2 alternatives to, the project.

3 (3) The environmental review required by paragraph (2) was
4 completed within five years of certification of the focused
5 environmental impact report.

6 (4) An environmental impact report is not required pursuant to
7 Section 21166.

8 (b) The discussion of significant effects on the environment in
9 the focused environmental impact report shall be limited to
10 project-specific potentially significant effects on the environment
11 of the project that were not discussed in the environmental analysis
12 of the rule or regulation required pursuant to subdivision (a) of
13 Section 21159. A discussion of growth-inducing impacts or
14 cumulative impacts shall not be required in the focused
15 environmental impact report, and the discussion of alternatives
16 shall be limited to a discussion of alternative means of compliance,
17 if any, with the rule or regulation.

18 *SEC. 4. Section 21159.4 of the Public Resources Code is*
19 *amended to read:*

20 21159.4. (a) This article shall apply to *all of the following*
21 *agencies:*~~the~~

- 22 (1) *The State Air Resources Board,*~~any.~~
- 23 (2) *A district as defined in Section 39025 of the Health and*
24 *Safety Code,*~~the.~~
- 25 (3) *The State Water Resources Control Board,*~~a.~~
- 26 (4) *The California regional water quality control board,*~~the.~~
- 27 (5) *The Department of Toxic Substances Control,*~~and the~~
28 *California Integrated Waste Management Board.*
- 29 (6) *The Department of Resources Recycling and Recovery.*

30 (b) *This article shall apply to the California Energy Commission*
31 *and the California Public Utilities Commission for rules and*
32 *regulations adopted pursuant to the California Global Warming*
33 *Solutions Act of 2006 (Division 25.5 (commencing with Section*
34 *38500) of the Health and Safety Code).*