

AMENDED IN ASSEMBLY MARCH 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 880

Introduced by Assembly Member V. Manuel Pérez

February 17, 2011

An act to amend ~~Section 21159.1~~ *Sections 21159, 21159.1, and 21159.4* of the Public Resources Code, relating to the environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 880, as amended, V. Manuel Pérez. Environmental quality: CEQA: expedited environmental review.

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 authorizes the use of a focused environmental impact report for a project that consists solely of the installation of pollution control equipment or for a project that consists solely of the installation of that equipment or other components in compliance with the California Global Warming Solutions Act of 2006.

~~This bill would make technical, nonsubstantive changes to the provision of the act that authorizes the use of a focused environmental impact report.~~

Existing law requires specified state and local government agencies to perform a specified environmental analysis at the time of the adoption of a rule or regulation requiring the installation of pollution control equipment, or a performance standard or treatment requirement,

including a rule or regulation that requires the installation of pollution control equipment or a performance standard or treatment requirement pursuant to the California Global Warming Solutions Act of 2006.

This bill would instead require that those agencies perform that environmental analysis at the time of the adoption of a rule or regulation requiring the compliance with an energy efficiency standard or compliance mechanism including that rule or regulation adopted pursuant to the California Global Warming Solutions Act of 2006.

This bill would also revise the circumstances under which a focused environmental impact report may be used for a project.

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

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

1 SECTION 1. Section 21159 of the Public Resources Code is
2 amended to read:

3 21159. (a) An agency listed in Section 21159.4 shall perform,
4 at the time of the adoption of a rule or regulation requiring the
5 installation of pollution control equipment, or *compliance with a*
6 *performance standard*~~or, treatment requirement, or energy~~
7 *efficiency standard*, including a rule or regulation that requires the
8 installation of pollution control equipment or *compliance with a*
9 *performance standard*~~or, treatment requirement, energy efficiency~~
10 *standard, or compliance mechanism adopted* pursuant to the
11 California Global Warming Solutions Act of 2006 (Division 25.5
12 (commencing with Section 38500) of the Health and Safety Code),
13 an environmental analysis of the reasonably foreseeable methods
14 of compliance. In the preparation of this analysis, the agency may
15 utilize numerical ranges or averages where specific data is not
16 available; however, the agency shall not be required to engage in
17 speculation or conjecture. The environmental analysis shall, at
18 minimum, include all of the following:

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

21 (2) An analysis of reasonably foreseeable feasible mitigation
22 measures.

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

1 (4) For a rule or regulation ~~that requires the installation of~~
2 ~~pollution control equipment~~ adopted pursuant to the California
3 Global Warming Solutions Act of 2006 (Division 25.5
4 (commencing with Section 38500) of the Health and Safety Code)
5 *that requires the installation of pollution control equipment,*
6 *improvements in energy efficiency, or compliance with performance*
7 *standards*, the analysis shall also include reasonably foreseeable
8 greenhouse gas emission impacts of compliance with the rule or
9 regulation.

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

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

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

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

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

23 **SECTION 1.**

24 **SEC. 2.** Section 21159.1 of the Public Resources Code is
25 amended to read:

26 21159.1. (a) A focused environmental impact report may be
27 utilized if a project meets all of the following requirements:

28 (1) The project consists solely of ~~the installation of either any~~
29 of the following:

30 (A) ~~Pollution~~ *Installation of pollution* control equipment
31 required by a rule or regulation of an agency listed in subdivision
32 (a) of Section 21159.4 and the other components necessary to
33 complete the installation of that equipment.

34 (B) ~~Pollution~~ *Installation of pollution* control equipment and
35 other components necessary to complete the installation of that
36 equipment that reduces greenhouse gases, as required by a rule or
37 regulation of an agency listed in Section 21159.4 pursuant to the
38 California Global Warming Solutions Act of 2006 (Division 25.5
39 (commencing with Section 38500) of the Health and Safety Code).

1 (C) Installation of pollution control equipment or new or
2 modified equipment, or implementation of other facility process
3 changes, or both, necessary or used to achieve compliance with
4 a performance standard, treatment requirement, energy efficiency
5 standard, or compliance mechanism included in a rule or
6 regulation adopted by an agency listed in subdivision (a) of Section
7 21159.4 pursuant to the California Global Warming Solutions Act
8 of 2006 (Division 25.5 (commencing with Section 38500) of the
9 Health and Safety Code).

10 (2) The agency certifies an environmental impact report on the
11 rule or regulation or reviews it pursuant to a certified regulatory
12 program, and, in either case, the review includes an assessment of
13 growth inducing impacts and cumulative impacts of, and
14 alternatives to, the project.

15 (3) The environmental review required by paragraph (2) is
16 completed within five years of certification of the focused
17 environmental impact report.

18 (4) An environmental impact report is not required pursuant to
19 Section 21166.

20 (b) The discussion of significant effects on the environment in
21 the focused environmental impact report shall be limited to
22 project-specific potentially significant effects on the environment
23 of the project that were not discussed in the environmental analysis
24 of the rule or regulation required pursuant to subdivision (a) of
25 Section 21159. A discussion of growth-inducing impacts or
26 cumulative impacts shall not be required in the focused
27 environmental impact report, and the discussion of alternatives
28 shall be limited to a discussion of alternative means of compliance,
29 if any, with the rule or regulation.

30 *SEC. 3. Section 21159.4 of the Public Resources Code is*
31 *amended to read:*

32 21159.4. (a) This article shall apply to all of the following
33 agencies:

34 (1) The State Air Resources Board.

35 (2) A district as defined in Section 39025 of the Health and
36 Safety Code.

37 (3) The State Water Resources Control Board.

38 (4) A California regional water quality control board.

39 (5) The Department of Toxic Substances Control.

40 (6) The Department of Resources Recycling and Recovery.

1 (b) This article shall apply to the State Energy Resources
2 Conservation and Development Commission and the California
3 Public Utilities Commission for rules and regulations requiring
4 the installation of pollution control equipment *or new or modified*
5 *equipment, or the implementation of other facility or process*
6 *changes, or both, including energy efficiency projects,* adopted
7 pursuant to the California Global Warming Solutions Act of 2006
8 (Division 25.5 (commencing with Section 38500) of the Health
9 and Safety Code).

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