

AMENDED IN SENATE MARCH 22, 2012

AMENDED IN ASSEMBLY MAY 10, 2011

AMENDED IN ASSEMBLY MARCH 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 880

**Introduced by ~~Assembly Member V. Manuel Pérez~~ Assembly
Members Nestande and V. Manuel Pérez**

February 17, 2011

An act to amend Sections 21159 and 21159.1 of the Public Resources Code add Section 1587 to the Fish and Game Code, relating to the environmental quality ecological reserves.

LEGISLATIVE COUNSEL'S DIGEST

AB 880, as amended, ~~V. Manuel Pérez Nestande. Environmental quality: CEQA: expedited environmental review. Ecological reserves: Mirage Trail.~~

Existing law authorizes the Department of Fish and Game, with the approval of the Fish and Game Commission, to, among other things, maintain, use, and administer land suitable for the purpose of establishing ecological reserves. Existing law authorizes the Department of Fish and Game to construct facilities and conduct programs in ecological reserves to provide natural history education and recreation if those facilities and programs are compatible with the protection of the biological resources of the reserve.

This bill would require the department to open the Mirage Trail within the Magnesia Spring Ecological Reserve to hiking and biking recreational activities.

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.

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 an environmental analysis of the reasonably foreseeable methods of compliance at the time of the adoption of a rule or regulation requiring the installation of pollution control equipment, or compliance with a performance standard or treatment requirement, including a rule or regulation that requires the installation of pollution control equipment or other direct emission reduction, or compliance with a performance standard or treatment requirement 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: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 1587 is added to the Fish and Game Code,
- 2 to read:
- 3 1587. The department shall open the Mirage Trail within the
- 4 Magnesia Spring Ecological Reserve to hiking and biking
- 5 recreational activities.
- 6 SECTION 1. ~~Section 21159 of the Public Resources Code is~~
- 7 amended to read:

1 21159. (a) An agency listed in Section 21159.4 shall perform
2 an environmental analysis of the reasonably foreseeable methods
3 of compliance at the time of the adoption of a rule or regulation
4 requiring the installation of pollution control equipment, or
5 compliance with a performance standard, or treatment requirement,
6 including a rule or regulation that requires the installation of
7 pollution control equipment or other direct emission reduction, or
8 compliance with a performance standard or treatment requirement
9 adopted pursuant to the California Global Warming Solutions Act
10 of 2006 (Division 25.5 (commencing with Section 38500) of the
11 Health and Safety Code). In the preparation of this analysis, the
12 agency may utilize numerical ranges or averages where specific
13 data is not available; however, the agency shall not be required to
14 engage in speculation or conjecture. The environmental analysis
15 shall, at minimum, include all of the following:

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

18 (2) An analysis of reasonably foreseeable feasible mitigation
19 measures.

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

22 (4) For a rule or regulation adopted pursuant to the California
23 Global Warming Solutions Act of 2006 (Division 25.5
24 (commencing with Section 38500) of the Health and Safety Code)
25 that requires the installation of pollution control equipment or other
26 direct emission reduction, the analysis shall also include reasonably
27 foreseeable greenhouse gas emission impacts of compliance with
28 the rule or regulation.

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

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

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

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

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

~~SEC. 2. Section 21159.1 of the Public Resources Code is amended to read:~~

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

~~(1) The project consists solely of any of the following:~~

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

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

~~(C) Installation of direct emission reduction required by a rule or regulation adopted by the State Air Resources Board pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).~~

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

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

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

~~(b) The discussion of significant effects on the environment in the focused environmental impact report shall be limited to project-specific potentially significant effects on the environment of the project that were not discussed in the environmental analysis of the rule or regulation required pursuant to subdivision (a) of Section 21159. A discussion of growth-inducing impacts or~~

1 ~~cumulative impacts shall not be required in the focused~~
2 ~~environmental impact report, and the discussion of alternatives~~
3 ~~shall be limited to a discussion of alternative means of compliance,~~
4 ~~if any, with the rule or regulation.~~

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