

AMENDED IN SENATE APRIL 11, 2013

SENATE BILL

No. 814

**Introduced by Committee on Natural Resources and Water
(Senators Pavley (Chair), Cannella, Evans, Fuller, Jackson, Lara,
Monning, and Wolk)**

February 26, 2013

An act to amend *Section 8405.2 of the Fish and Game Code, and to amend Sections 607, 2774, and 2790, and 30333 of the Public Resources Code, relating to ~~public resources~~ administration of natural resources.*

LEGISLATIVE COUNSEL'S DIGEST

SB 814, as amended, Committee on Natural Resources and Water. ~~Public resources: mining.~~ *resources: administration.*

Existing law prohibits sea cucumbers from being taken, possessed aboard a boat, or landed by a person for commercial purposes except under a valid sea cucumber permit. Existing law authorizes a sea cucumber permit to be transferred if specified conditions are met, including requiring that an application for transfer be submitted to the Department of Fish and Wildlife and the payment of a transfer fee.

This bill would authorize, upon the death of a sea cucumber permitholder, a sea cucumber permit to be transferred by the permitholder's heirs, assignees, or estate to a qualified person as specified.

Under existing law, the Department of Conservation is divided between various entities, including the Division of Oil, Gas, and Geothermal Resources and the Office of Mine Reclamation. The Surface Mining and Reclamation Act of 1975, administered by the department, prohibits a person, with exceptions, from conducting surface mining operations unless, among other things, a reclamation plan is submitted

to and approved by the lead agency for the operation. The act requires every lead agency to adopt ordinances that establish procedures for the review and approval of reclamation plans, and, before approving a reclamation plan, to submit the plan to the Director of Conservation. The act also authorizes the State Mining and Geology Board to designate specific geographic areas of the state as areas of statewide or regional significance, as specified.

Under existing law, the California Coastal Commission is authorized to amend or adopt rules and regulations related to duties of the commission in accordance with specified provisions of law.

This bill would make technical, nonsubstantive changes to these Department of Conservation *and California Coastal Commission* provisions.

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 8405.2 of the Fish and Game Code is
2 amended to read:

3 8405.2. (a) A sea cucumber permit may be transferred by the
4 permittee if the permittee has previously held a valid sea cucumber
5 permit for any four permit years and landed at least 100 pounds
6 of sea cucumbers in each of those permit years, as documented by
7 landing receipts with the name of the permittee shown on the
8 receipts.

9 (b) A sea cucumber permit may be transferred only to a person
10 who has a valid commercial fishing license issued pursuant to
11 Section 7852, that has not been suspended or revoked. A sea
12 cucumber permit shall not be transferred to ~~any~~ a person who has
13 had a sea cucumber permit suspended or revoked while the
14 suspension or revocation is in effect.

15 (c) An application for transfer shall be submitted to the
16 department, with ~~such~~ reasonable proof as the department may
17 require to establish the qualifications of the permitholder and the
18 person the permit is to be transferred to, accompanied by payment
19 to the department of a nonrefundable transfer fee of two hundred
20 dollars (\$200). The transfer shall take effect on the date notice of
21 approval of the application is given to the transferee by the
22 department.

1 (d) A sea cucumber trawl permit may be transferred to ~~any a~~
2 qualified person as provided in subdivisions (b) and (c) to take sea
3 cucumbers by diving or by use of trawl nets. A sea cucumber dive
4 permit may be transferred to ~~any a~~ qualified person as provided
5 in subdivisions (b) and (c) only to take sea cucumbers by diving.
6 The transferee shall specify the gear type, either trawl or dive, that
7 the transferee intends to use to take sea cucumbers. The gear type
8 of the sea cucumber permit, either trawl or dive, shall not be
9 transferable.

10 (e) *Upon the death of a sea cucumber permitholder, the*
11 *deceased person's sea cucumber dive or trawl permit may be*
12 *transferred by his or her heirs, assignees, or estate to a qualified*
13 *person as provided in this section and upon payment of the fee*
14 *described in subdivision (c).*

15 ~~SECTION 1.~~

16 *SEC. 2.* Section 607 of the Public Resources Code is amended
17 to read:

18 607. The work of the department shall be divided into at least
19 the following:

- 20 (a) California Geological Survey.
- 21 (b) Division of Oil, Gas, and Geothermal Resources.
- 22 (c) Division of Land Resource Protection.
- 23 (d) Office of Mine Reclamation.

24 ~~SEC. 2.~~

25 *SEC. 3.* Section 2774 of the Public Resources Code is amended
26 to read:

27 2774. (a) Every lead agency shall adopt ordinances in
28 accordance with state policy that establish procedures for the
29 review and approval of reclamation plans and financial assurances
30 and the issuance of a permit to conduct surface mining operations,
31 except that any lead agency without an active surface mining
32 operation in its jurisdiction may defer adopting an implementing
33 ordinance until the filing of a permit application. The ordinances
34 shall establish procedures requiring at least one public hearing and
35 shall be periodically reviewed by the lead agency and revised, as
36 necessary, to ensure that the ordinances continue to be in
37 accordance with state policy.

38 (b) The lead agency shall conduct an inspection of a surface
39 mining operation within six months of receipt by the lead agency
40 of the surface mining operation's report submitted pursuant to

1 Section 2207, solely to determine whether the surface mining
2 operation is in compliance with this chapter. In no event shall a
3 lead agency inspect a surface mining operation less than once in
4 any calendar year. The lead agency may cause an inspection to be
5 conducted by a state licensed geologist, state licensed civil
6 engineer, state licensed landscape architect, or state licensed
7 forester, who is experienced in land reclamation and who has not
8 been employed by a surface mining operation within the
9 jurisdiction of the lead agency in any capacity during the previous
10 12 months. All inspections shall be conducted using a form
11 developed by the department and approved by the board that shall
12 include the professional licensing and disciplinary information of
13 the person who conducted the inspection. The operator shall be
14 solely responsible for the reasonable cost of the inspection. The
15 lead agency shall notify the director within 30 days of the date of
16 completion of the inspection that the inspection has been
17 conducted. The notice shall contain a statement regarding the
18 surface mining operation's compliance with this chapter, shall
19 include a copy of the completed inspection form, and shall specify
20 which aspects of the surface mining operations, if any, are
21 inconsistent with this chapter. If the surface mining operation has
22 a review of its reclamation plan, financial assurances, or an interim
23 management plan pending under subdivision (b), (c), (d), or (h)
24 of Section 2770, or an appeal pending before the board or lead
25 agency governing body under subdivision (e) or (h) of Section
26 2770, the notice shall so indicate. The lead agency shall forward
27 to the operator a copy of the notice, a copy of the completed
28 inspection form, and any supporting documentation, including,
29 but not limited to, any inspection report prepared by the geologist,
30 civil engineer, landscape architect, or forester, who conducted the
31 inspection.

32 (c) Before approving a surface mining operation's reclamation
33 plan, financial assurances, including existing financial assurances
34 reviewed by the lead agency pursuant to subdivision (c) of Section
35 2770, or any amendments, the lead agency shall submit the plan,
36 assurances, or amendments to the director for review. All
37 documentation for that submission shall be submitted to the director
38 at one time. When the lead agency submits a reclamation plan or
39 plan amendments to the director for review, the lead agency shall
40 also submit to the director, for use in reviewing the reclamation

1 plan or plan amendments, information from any related document
2 prepared, adopted, or certified pursuant to Division 13
3 (commencing with Section 21000), and shall submit any other
4 pertinent information. The lead agency shall certify to the director
5 that the reclamation plan is in compliance with the applicable
6 requirements of this chapter and Article 1 (commencing with
7 Section 3500) of Chapter 8 of Division 2 of Title 14 of the
8 California Code of Regulations and the lead agency's mining
9 ordinance in effect at the time that the reclamation plan is submitted
10 to the director for review.

11 (d) (1) The director shall have 30 days from the date of receipt
12 of a reclamation plan or plan amendments submitted pursuant to
13 subdivision (c), and 45 days from the date of receipt of financial
14 assurances submitted pursuant to subdivision (c), to prepare written
15 comments, if the director so chooses. The lead agency shall
16 evaluate written comments received from the director relating to
17 the reclamation plan, plan amendments, or financial assurances
18 within a reasonable amount of time.

19 (2) The lead agency shall prepare a written response to the
20 director's comments describing the disposition of the major issues
21 raised by the director's comments, and submit the lead agency's
22 proposed response to the director at least 30 days prior to approval
23 of the reclamation plan, plan amendment, or financial assurance.
24 The lead agency's response to the director's comments shall
25 describe whether the lead agency proposes to adopt the director's
26 comments to the reclamation plan, plan amendment, or financial
27 assurance. If the lead agency does not propose to adopt the
28 director's comments, the lead agency shall specify, in detail, why
29 the lead agency proposes not to adopt the comments. Copies of
30 any written comments received and responses prepared by the lead
31 agency shall be forwarded to the operator. The lead agency shall
32 also give the director at least 30 days' notice of the time, place,
33 and date of the hearing before the lead agency at which time the
34 reclamation plan, plan amendment, or financial assurance is
35 scheduled to be approved by the lead agency. If no hearing is
36 required by this chapter, or by the local ordinance, or other state
37 law, then the lead agency shall provide 30 days' notice to the
38 director that it intends to approve the reclamation plan, plan
39 amendment, or financial assurance. The lead agency shall send to
40 the director its final response to the director's comments within

1 30 days following its approval of the reclamation plan, plan
2 amendment, or financial assurance during which period the
3 department retains all powers, duties, and authorities of this
4 chapter.

5 (3) To the extent that there is a conflict between the comments
6 of a trustee agency or a responsible agency that are based on the
7 agency's statutory or regulatory authority and the comments of
8 other commenting agencies which are received by the lead agency
9 pursuant to Division 13 (commencing with Section 21000)
10 regarding a reclamation plan or plan amendments, the lead agency
11 shall consider only the comments of the trustee agency or
12 responsible agency.

13 (e) Lead agencies shall notify the director of the filing of an
14 application for a permit to conduct surface mining operations
15 within 30 days of an application being filed with the lead agency.
16 By July 1, 1991, each lead agency shall submit to the director for
17 every active or idle mining operation within its jurisdiction, a copy
18 of the mining permit required pursuant to Section 2774, and any
19 conditions or amendments to those permits. By July 1 of each
20 subsequent year, the lead agency shall submit to the director for
21 each active or idle mining operation a copy of any permit or
22 reclamation plan amendments, as applicable, or a statement that
23 there have been no changes during the previous year. Failure to
24 file with the director the information required under this section
25 shall be cause for action under Section 2774.4.

26 ~~SEC. 3.~~

27 *SEC. 4.* Section 2790 of the Public Resources Code is amended
28 to read:

29 2790. After receipt of mineral information from the State
30 Geologist pursuant to subdivision (d) of Section 2761, the board
31 may, by regulation adopted after a public hearing, designate
32 specific geographic areas of the state as areas of statewide or
33 regional significance and specify the boundaries of the geographic
34 areas. The designation shall be included as a part of the state policy
35 and shall indicate the reason for which the particular area
36 designated is of significance to the state or region, the adverse
37 effects that might result from premature development of
38 incompatible land uses, the advantages that might be achieved
39 from extraction of the minerals of the area, and the specific goals

1 and policies to protect against the premature incompatible
2 development of the area.

3 *SEC. 5. Section 30333 of the Public Resources Code is*
4 *amended to read:*

5 30333. (a) Except as provided in Section 18930 of the Health
6 and Safety Code, the commission may adopt or amend, by vote of
7 a majority of the appointed membership ~~thereof of the commission,~~
8 rules and regulations to carry out the purposes and provisions of
9 this division, and to govern procedures of the commission.

10 ~~Except~~

11 (b) *Except* as provided in Section 18930 of the Health and
12 Safety Code and paragraph (3) of subdivision (a) of Section 30620,
13 these rules and regulations shall be adopted in accordance with
14 the provisions of Chapter ~~4.5 (commencing with Section 11371)~~
15 *3.5 (commencing with Section 11340)* of Part 1 of Division 3 of
16 Title 2 of the Government Code. These rules and regulations shall
17 be consistent with this division and other applicable law.