

AMENDED IN ASSEMBLY JUNE 26, 2013

AMENDED IN ASSEMBLY JUNE 10, 2013

AMENDED IN SENATE APRIL 11, 2013

**SENATE BILL**

**No. 814**

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

February 26, 2013

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An act to amend Sections 8405.2 and 12025 of the Fish and Game Code, to amend Sections 607, 2774, 2790, 30333, and 30620 of the Public Resources Code, and to amend Section 2810.2 of the Vehicle Code, relating to administration of public resources.

LEGISLATIVE COUNSEL'S DIGEST

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

(1) 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 *require that a sea cucumber permit be valid to be transferred and would require the application for transfer to be in the form of a notarized letter. The 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.

(2) Existing law imposes various civil fines and penalties for a violation of specified provisions of the Fish and Game Code in connection with the production or cultivation of a controlled substance, as defined, on land within the jurisdiction of specified state, local, and federal agencies or within the ownership of a timberland production zone, as prescribed.

Existing law also authorizes a peace officer, as described, to stop a vehicle transporting agricultural irrigation supplies, as defined, that are in plain view on a rock road or unpaved road that is located in a county that elects to implement these provisions, and within the jurisdiction of specified state, local, or federal agencies or within the ownership of a timberland production zone and to inspect the bills of lading, shipping, or delivery papers, or other evidence, to determine whether the driver is in legal possession of the load. Existing law authorizes the peace officer, upon reasonable belief that the driver of the vehicle is not in legal possession, to take custody of the vehicle and load and turn them over to the custody of the sheriff of the county in which any of those items are apprehended.

This bill would revise these provisions to instead specify their application to lands under the management of these various state, local, and federal agencies.

(3) 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. Existing law requires the commission to prepare interim procedures for coastal development permit applications and claims of exemption, as specified, including interpretive guidelines to determine how policies of the California Coastal Act are applied in the coastal zone prior to the certification of local coastal programs.

This bill would require the interpretive guidelines to also include how the policies are applied through the preparation and amendment of local coastal programs and would make various technical, nonsubstantive changes to these California Coastal Commission provisions.

(4) 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.

This bill would make technical, nonsubstantive changes to these Department of Conservation provisions.

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

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

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

16 (c) An application for transfer *of a permit shall be in the form*  
17 *of a notarized letter and* shall be submitted to the department, with  
18 reasonable proof as the department may require to establish the  
19 qualifications of the permitholder and the person the permit is to  
20 be transferred to, accompanied by payment to the department of  
21 a nonrefundable transfer fee of two hundred dollars (\$200). The  
22 transfer shall take effect on the date notice of approval of the  
23 application is given to the transferee by the department. *The sea*  
24 *cucumber permit shall be valid for the remainder of the permit*  
25 *year and may be renewed in subsequent years.*

26 (d) A sea cucumber trawl permit may be transferred to a  
27 qualified person as provided in subdivisions (b) and (c) to take sea

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

8 (e) (1) Upon the death of a sea cucumber permitholder, the  
9 deceased person's sea cucumber dive or trawl permit may be  
10 transferred by his or her heirs, assignees, or estate to a qualified  
11 person as provided in ~~this section and subdivision (b)~~, upon  
12 payment of the fee described in subdivision ~~(e)~~ (c), *and in*  
13 *accordance with subdivisions (a) and (d). The estate of the*  
14 *decedent may transfer the permit pursuant to this chapter no later*  
15 *than two years from the date of death of the permitholder, as listed*  
16 *on the death certificate.*

17 (2) *For purposes of a transfer under this subdivision, the heirs,*  
18 *assignees, or estate shall renew the permit as specified in Section*  
19 *8405.1 to keep the permit valid until transferred.*

20 SEC. 2. Section 12025 of the Fish and Game Code is amended  
21 to read:

22 12025. (a) In addition to any penalties imposed by any other  
23 law, a person found to have violated Section 1602, 5650, or 5652  
24 in connection with the production or cultivation of a controlled  
25 substance on land under the management of the Department of  
26 Parks and Recreation, the Department of Fish and Wildlife, the  
27 Department of Forestry and Fire Protection, the State Lands  
28 Commission, a regional park district, the United States Forest  
29 Service, or the Bureau of Land Management, or within the  
30 respective ownership of a timberland production zone, as defined  
31 in Chapter 6.7 (commencing with Section 51100) of Division 1 of  
32 Title 5 of the Government Code, of more than 50,000 acres, shall  
33 be liable for a civil penalty in the following amounts:

34 (1) A person who violates Section 1602 in connection with the  
35 production or cultivation of a controlled substance is subject to a  
36 civil penalty of not more than ten thousand dollars (\$10,000) for  
37 each violation.

38 (2) A person who violates Section 5650 in connection with the  
39 production or cultivation of a controlled substance is subject to a

1 civil penalty of not more than forty thousand dollars (\$40,000) for  
2 each violation.

3 (3) A person who violates Section 5652 in connection with the  
4 production or cultivation of a controlled substance is subject to a  
5 civil penalty of not more than forty thousand dollars (\$40,000) for  
6 each violation.

7 (b) The civil penalty imposed for each separate violation  
8 pursuant to this section is in addition to any other civil penalty  
9 imposed for another violation of this section, or any violation of  
10 any other law.

11 (c) All civil penalties collected for a separate violation pursuant  
12 to this section shall not be considered to be fines or forfeitures, as  
13 described in Section 13003, and shall be apportioned in the  
14 following manner:

15 (1) Thirty percent shall be distributed to the county in which  
16 the violation was committed pursuant to Section 13003. The county  
17 board of supervisors shall first use any revenues from those  
18 penalties to reimburse the costs incurred by the district attorney  
19 or city attorney in investigating and prosecuting the violation.

20 (2) Thirty percent shall be distributed to the investigating agency  
21 to be used to reimburse the cost of any investigation directly related  
22 to the violations described in this section.

23 (3) Forty percent shall be distributed to the agency performing  
24 the cleanup or abatement of the cultivation or production site for  
25 the reimbursement for all reasonable costs associated with the  
26 cleanup or abatement.

27 (d) For purposes of this section, “controlled substance” has the  
28 same meaning as defined in Section 11007 of the Health and Safety  
29 Code.

30 SEC. 3. Section 607 of the Public Resources Code is amended  
31 to read:

32 607. The work of the department shall be divided into at least  
33 the following:

- 34 (a) California Geological Survey.
- 35 (b) Division of Oil, Gas, and Geothermal Resources.
- 36 (c) Division of Land Resource Protection.
- 37 (d) Office of Mine Reclamation.

38 SEC. 4. Section 2774 of the Public Resources Code is amended  
39 to read:

1 2774. (a) Every lead agency shall adopt ordinances in  
2 accordance with state policy that establish procedures for the  
3 review and approval of reclamation plans and financial assurances  
4 and the issuance of a permit to conduct surface mining operations,  
5 except that any lead agency without an active surface mining  
6 operation in its jurisdiction may defer adopting an implementing  
7 ordinance until the filing of a permit application. The ordinances  
8 shall establish procedures requiring at least one public hearing and  
9 shall be periodically reviewed by the lead agency and revised, as  
10 necessary, to ensure that the ordinances continue to be in  
11 accordance with state policy.

12 (b) The lead agency shall conduct an inspection of a surface  
13 mining operation within six months of receipt by the lead agency  
14 of the surface mining operation's report submitted pursuant to  
15 Section 2207, solely to determine whether the surface mining  
16 operation is in compliance with this chapter. In no event shall a  
17 lead agency inspect a surface mining operation less than once in  
18 any calendar year. The lead agency may cause an inspection to be  
19 conducted by a state licensed geologist, state licensed civil  
20 engineer, state licensed landscape architect, or state licensed  
21 forester, who is experienced in land reclamation and who has not  
22 been employed by a surface mining operation within the  
23 jurisdiction of the lead agency in any capacity during the previous  
24 12 months. All inspections shall be conducted using a form  
25 developed by the department and approved by the board that shall  
26 include the professional licensing and disciplinary information of  
27 the person who conducted the inspection. The operator shall be  
28 solely responsible for the reasonable cost of the inspection. The  
29 lead agency shall notify the director within 30 days of the date of  
30 completion of the inspection that the inspection has been  
31 conducted. The notice shall contain a statement regarding the  
32 surface mining operation's compliance with this chapter, shall  
33 include a copy of the completed inspection form, and shall specify  
34 which aspects of the surface mining operations, if any, are  
35 inconsistent with this chapter. If the surface mining operation has  
36 a review of its reclamation plan, financial assurances, or an interim  
37 management plan pending under subdivision (b), (c), (d), or (h)  
38 of Section 2770, or an appeal pending before the board or lead  
39 agency governing body under subdivision (e) or (h) of Section  
40 2770, the notice shall so indicate. The lead agency shall forward

1 to the operator a copy of the notice, a copy of the completed  
2 inspection form, and any supporting documentation, including,  
3 but not limited to, any inspection report prepared by the geologist,  
4 civil engineer, landscape architect, or forester, who conducted the  
5 inspection.

6 (c) Before approving a surface mining operation's reclamation  
7 plan, financial assurances, including existing financial assurances  
8 reviewed by the lead agency pursuant to subdivision (c) of Section  
9 2770, or any amendments, the lead agency shall submit the plan,  
10 assurances, or amendments to the director for review. All  
11 documentation for that submission shall be submitted to the director  
12 at one time. When the lead agency submits a reclamation plan or  
13 plan amendments to the director for review, the lead agency shall  
14 also submit to the director, for use in reviewing the reclamation  
15 plan or plan amendments, information from any related document  
16 prepared, adopted, or certified pursuant to Division 13  
17 (commencing with Section 21000), and shall submit any other  
18 pertinent information. The lead agency shall certify to the director  
19 that the reclamation plan is in compliance with the applicable  
20 requirements of this chapter and Article 1 (commencing with  
21 Section 3500) of Chapter 8 of Division 2 of Title 14 of the  
22 California Code of Regulations and the lead agency's mining  
23 ordinance in effect at the time that the reclamation plan is submitted  
24 to the director for review.

25 (d) (1) The director shall have 30 days from the date of receipt  
26 of a reclamation plan or plan amendments submitted pursuant to  
27 subdivision (c), and 45 days from the date of receipt of financial  
28 assurances submitted pursuant to subdivision (c), to prepare written  
29 comments, if the director so chooses. The lead agency shall  
30 evaluate written comments received from the director relating to  
31 the reclamation plan, plan amendments, or financial assurances  
32 within a reasonable amount of time.

33 (2) The lead agency shall prepare a written response to the  
34 director's comments describing the disposition of the major issues  
35 raised by the director's comments, and submit the lead agency's  
36 proposed response to the director at least 30 days prior to approval  
37 of the reclamation plan, plan amendment, or financial assurance.  
38 The lead agency's response to the director's comments shall  
39 describe whether the lead agency proposes to adopt the director's  
40 comments to the reclamation plan, plan amendment, or financial

1 assurance. If the lead agency does not propose to adopt the  
2 director's comments, the lead agency shall specify, in detail, why  
3 the lead agency proposes not to adopt the comments. Copies of  
4 any written comments received and responses prepared by the lead  
5 agency shall be forwarded to the operator. The lead agency shall  
6 also give the director at least 30 days' notice of the time, place,  
7 and date of the hearing before the lead agency at which time the  
8 reclamation plan, plan amendment, or financial assurance is  
9 scheduled to be approved by the lead agency. If no hearing is  
10 required by this chapter, or by the local ordinance, or other state  
11 law, then the lead agency shall provide 30 days' notice to the  
12 director that it intends to approve the reclamation plan, plan  
13 amendment, or financial assurance. The lead agency shall send to  
14 the director its final response to the director's comments within  
15 30 days following its approval of the reclamation plan, plan  
16 amendment, or financial assurance during which period the  
17 department retains all powers, duties, and authorities of this  
18 chapter.

19 (3) To the extent that there is a conflict between the comments  
20 of a trustee agency or a responsible agency that are based on the  
21 agency's statutory or regulatory authority and the comments of  
22 other commenting agencies which are received by the lead agency  
23 pursuant to Division 13 (commencing with Section 21000)  
24 regarding a reclamation plan or plan amendments, the lead agency  
25 shall consider only the comments of the trustee agency or  
26 responsible agency.

27 (e) A lead agency shall notify the director of the filing of an  
28 application for a permit to conduct surface mining operations  
29 within 30 days of an application being filed with the lead agency.  
30 By July 1, 1991, each lead agency shall submit to the director for  
31 every active or idle mining operation within its jurisdiction, a copy  
32 of the mining permit required pursuant to Section 2774, and any  
33 conditions or amendments to those permits. By July 1 of each  
34 subsequent year, the lead agency shall submit to the director for  
35 each active or idle mining operation a copy of any permit or  
36 reclamation plan amendments, as applicable, or a statement that  
37 there have been no changes during the previous year. Failure to  
38 file with the director the information required under this section  
39 shall be cause for action under Section 2774.4.

1 SEC. 5. Section 2790 of the Public Resources Code is amended  
2 to read:

3 2790. After receipt of mineral information from the State  
4 Geologist pursuant to subdivision (d) of Section 2761, the board  
5 may, by regulation adopted after a public hearing, designate  
6 specific geographic areas of the state as areas of statewide or  
7 regional significance and specify the boundaries of the geographic  
8 areas. The designation shall be included as a part of the state policy  
9 and shall indicate the reason for which the particular area  
10 designated is of significance to the state or region, the adverse  
11 effects that might result from premature development of  
12 incompatible land uses, the advantages that might be achieved  
13 from extraction of the minerals of the area, and the specific goals  
14 and policies to protect against the premature incompatible  
15 development of the area.

16 SEC. 6. Section 30333 of the Public Resources Code is  
17 amended to read:

18 30333. (a) Except as provided in Section 18930 of the Health  
19 and Safety Code, the commission may adopt or amend, by vote of  
20 a majority of the appointed membership of the commission, rules  
21 and regulations to carry out the purposes and provisions of this  
22 division, and to govern procedures of the commission.

23 (b) Except as provided in Section 18930 of the Health and Safety  
24 Code and paragraph (3) of subdivision (a) of Section 30620, these  
25 rules and regulations shall be adopted in accordance with the  
26 provisions of Chapter 3.5 (commencing with Section 11340) of  
27 Part 1 of Division 3 of Title 2 of the Government Code. These  
28 rules and regulations shall be consistent with this division and  
29 other applicable law.

30 SEC. 7. Section 30620 of the Public Resources Code is  
31 amended to read:

32 30620. (a) By January 30, 1977, the commission shall,  
33 consistent with this chapter, prepare interim procedures for the  
34 submission, review, and appeal of coastal development permit  
35 applications and of claims of exemption. These procedures shall  
36 include, but are not limited to, all of the following:

- 37 (1) Application and appeal forms.
- 38 (2) Reasonable provisions for notification to the commission  
39 and other interested persons of an action taken by a local  
40 government pursuant to this chapter, in sufficient detail to ensure

1 that a preliminary review of that action for conformity with this  
2 chapter can be made.

3 (3) Interpretive guidelines designed to assist local governments,  
4 the commission, and persons subject to this chapter in determining  
5 how the policies of this division shall be applied in the coastal  
6 zone prior to the certification, and through the preparation and  
7 amendment, of local coastal programs. However, the guidelines  
8 shall not supersede, enlarge, or diminish the powers or authority  
9 of the commission or any other public agency.

10 (b) Not later than May 1, 1977, the commission shall, after  
11 public hearing, adopt permanent procedures that include the  
12 components specified in subdivision (a) and shall transmit a copy  
13 of those procedures to each local government within the coastal  
14 zone and make them readily available to the public. The  
15 commission may thereafter, from time to time, and, except in cases  
16 of emergency, after public hearing, modify or adopt additional  
17 procedures or guidelines that the commission determines to be  
18 necessary to better carry out the purposes of this division.

19 (c) (1) The commission may require a reasonable filing fee and  
20 the reimbursement of expenses for the processing by the  
21 commission of an application for a coastal development permit  
22 under this division and, except for local coastal program submittals,  
23 for any other filing, including, but not limited to, a request for  
24 revocation, categorical exclusion, or boundary adjustment, that is  
25 submitted for review by the commission.

26 (2) Any coastal development permit fees that are collected by  
27 the commission under paragraph (1) shall be deposited in the  
28 Coastal Act Services Fund established pursuant to Section 30620.1.  
29 This paragraph does not authorize an increase in fees or create any  
30 new authority on the part of the commission.

31 (d) With respect to an appeal of an action taken by a local  
32 government pursuant to Section 30602 or 30603, the executive  
33 director shall, within five working days of receipt of an appeal  
34 from a person other than a member of the commission or a public  
35 agency, determine whether the appeal is patently frivolous. If the  
36 executive director determines that an appeal is patently frivolous,  
37 the appeal shall not be filed unless a filing fee in the amount of  
38 three hundred dollars (\$300) is deposited with the commission  
39 within five working days of the receipt of the executive director's

1 determination. If the commission subsequently finds that the appeal  
2 raises a substantial issue, the filing fee shall be refunded.

3 SEC. 8. Section 2810.2 of the Vehicle Code is amended to  
4 read:

5 2810.2. (a) (1) A peace officer, as described in Chapter 4.5  
6 (commencing with Section 830) of Title 3 of Part 2 of the Penal  
7 Code, may stop any vehicle transporting agricultural irrigation  
8 supplies that are in plain view to inspect the bills of lading,  
9 shipping, or delivery papers, or other evidence to determine  
10 whether the driver is in legal possession of the load, if the vehicle  
11 is on a rock road or unpaved road that is located in a county that  
12 has elected to implement this section and the road is located as  
13 follows:

14 (A) Located under the management of the Department of Parks  
15 and Recreation, the Department of Fish and Wildlife, the  
16 Department of Forestry and Fire Protection, the State Lands  
17 Commission, a regional park district, the United States Forest  
18 Service, or the Bureau of Land Management.

19 (B) Located within the respective ownership of a timberland  
20 production zone, as defined in Chapter 6.7 (commencing with  
21 Section 51100) of Division 1 of Title 5 of the Government Code,  
22 either that is larger than 50,000 acres or for which the owner of  
23 more than 2,500 acres has given express written permission for a  
24 vehicle to be stopped within that zone pursuant to this section.

25 (2) Upon reasonable belief that the driver of the vehicle is not  
26 in legal possession, the law enforcement officer specified in  
27 paragraph (1) shall take custody of the vehicle and load and turn  
28 them over to the custody of the sheriff of the county that has elected  
29 to implement this section where the agricultural irrigation supplies  
30 are apprehended.

31 (b) The sheriff shall receive and provide for the care and  
32 safekeeping of the apprehended agricultural irrigation supplies  
33 that were in plain view within the boundaries of public lands under  
34 the management of the entities listed in subparagraph (A) of  
35 paragraph (1) of subdivision (a) or on a timberland production  
36 zone as specified in subparagraph (B) of paragraph (1) of  
37 subdivision (a), and immediately, in cooperation with the  
38 department, proceed with an investigation and its legal disposition.

- 1 (c) Any expense incurred by the sheriff in the performance of  
2 his or her duties under this section shall be a legal charge against  
3 the county.
- 4 (d) Except as provided in subdivision (e), a peace officer shall  
5 not cause the impoundment of a vehicle at a traffic stop made  
6 pursuant to subdivision (a) if the driver’s only offense is a violation  
7 of Section 12500.
- 8 (e) During the conduct of pulling a driver over in accordance  
9 with subdivision (a), if the peace officer encounters a driver who  
10 is in violation of Section 12500, the peace officer shall make a  
11 reasonable attempt to identify the registered owner of the vehicle.  
12 If the registered owner is present, or the peace officer is able to  
13 identify the registered owner and obtain the registered owner’s  
14 authorization to release the motor vehicle to a licensed driver  
15 during the vehicle stop, the vehicle shall be released to either the  
16 registered owner of the vehicle if he or she is a licensed driver or  
17 to the licensed driver authorized by the registered owner of the  
18 vehicle. If a notice to appear is issued, the name and the driver’s  
19 license number of the licensed driver to whom the vehicle was  
20 released pursuant to this subdivision shall be listed on the officer’s  
21 copy of the notice to appear issued to the unlicensed driver. When  
22 a vehicle cannot be released, the vehicle shall be removed pursuant  
23 to subdivision (p) of Section 22651, whether a notice to appear  
24 has been issued or not.
- 25 (f) For purposes of this section, “agricultural irrigation supplies”  
26 include agricultural irrigation water bladder and one-half inch  
27 diameter or greater irrigation line.
- 28 (g) This section shall be implemented only in a county where  
29 the board of supervisors adopts a resolution authorizing the  
30 enforcement of this section.