

Senate Bill No. 814

Passed the Senate September 4, 2013

Secretary of the Senate

Passed the Assembly August 30, 2013

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 8405.2 and 12025 of the Fish and Game Code, to amend Sections 607, 2774, 2790, 30333, 30620, and 71205.3 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, Committee on Natural Resources and Water. Natural 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) Existing law, the Marine Invasive Species Act, generally applies to a vessel carrying or capable of carrying ballast water into the coastal waters of the state after operating outside of the coastal waters of the state, and to all ballast water and associated sediments taken on the vessel. The act requires the State Lands Commission to adopt specified regulations, including regulations requiring an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to comply with an implementation schedule with specified compliance dates.

This bill would extend those compliance dates and make technical, nonsubstantive changes to these Marine Invasive Species Act provisions.

(5) 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.

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

SECTION 1. Section 8405.2 of the Fish and Game Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 8. Section 71205.3 of the Public Resources Code is amended to read:

71205.3. (a) On or before January 1, 2008, the commission shall adopt regulations that do all of the following:

(1) Except as provided in Section 71204.7, require an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to implement the interim performance standards for the discharge of ballast water recommended in accordance with Table x-1 of the California State Lands Commission Report on Performance Standards for Ballast Water Discharges in California Waters, as approved by the commission on January 26, 2006.

(2) Except as provided in Section 71204.7, require an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to comply with the following implementation schedule:

Ballast water capacity of vessel	Standards apply to new vessels in this size class constructed on or after:	Standards apply to all other vessels in this size class beginning on:
<1500 metric tons	January 1, 2016	January 1, 2018
1500-5000 metric tons	January 1, 2016	January 1, 2016
>5000 metric tons	January 1, 2016	January 1, 2018

(3) Notwithstanding Section 71204.7, require an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to meet the final performance standard for the discharge of ballast water of zero detectable for all organism size classes by 2020, as approved by the commission on January 26, 2006.

(b) Not less than 18 months prior to the scheduled compliance date specified in paragraph (2) of subdivision (a) for each subsequent class and the date for implementation of the final performance standard, as specified in paragraph (3) of subdivision (a), the commission, in consultation with the State Water Resources Control Board, the United States Coast Guard, and the advisory panel described in subdivision (b) of Section 71204.9, shall prepare, or update, and submit to the Legislature a review of the efficacy,

availability, and environmental impacts, including the effect on water quality, of currently available technologies for ballast water treatment systems. If technologies to meet the performance standards are determined in a review to be unavailable, the commission shall include in that review an assessment of why the technologies are unavailable.

SEC. 9. Section 2810.2 of the Vehicle Code is amended to read:

2810.2. (a) (1) A peace officer, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may stop any vehicle transporting agricultural irrigation supplies that are in plain view 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, if the vehicle is on a rock road or unpaved road that is located in a county that has elected to implement this section and the road is located as follows:

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

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

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

(b) The sheriff shall receive and provide for the care and safekeeping of the apprehended agricultural irrigation supplies that were in plain view within the boundaries of public lands under the management of the entities listed in subparagraph (A) of paragraph (1) of subdivision (a) or on a timberland production zone as specified in subparagraph (B) of paragraph (1) of

subdivision (a), and immediately, in cooperation with the department, proceed with an investigation and its legal disposition.

(c) Any expense incurred by the sheriff in the performance of his or her duties under this section shall be a legal charge against the county.

(d) Except as provided in subdivision (e), a peace officer shall not cause the impoundment of a vehicle at a traffic stop made pursuant to subdivision (a) if the driver's only offense is a violation of Section 12500.

(e) During the conduct of pulling a driver over in accordance with subdivision (a), if the peace officer encounters a driver who is in violation of Section 12500, the peace officer shall make a reasonable attempt to identify the registered owner of the vehicle. If the registered owner is present, or the peace officer is able to identify the registered owner and obtain the registered owner's authorization to release the motor vehicle to a licensed driver during the vehicle stop, the vehicle shall be released to either the registered owner of the vehicle if he or she is a licensed driver or to the licensed driver authorized by the registered owner of the vehicle. If a notice to appear is issued, the name and the driver's license number of the licensed driver to whom the vehicle was released pursuant to this subdivision shall be listed on the officer's copy of the notice to appear issued to the unlicensed driver. When a vehicle cannot be released, the vehicle shall be removed pursuant to subdivision (p) of Section 22651, whether a notice to appear has been issued or not.

(f) For purposes of this section, "agricultural irrigation supplies" include agricultural irrigation water bladder and one-half inch diameter or greater irrigation line.

(g) This section shall be implemented only in a county where the board of supervisors adopts a resolution authorizing the enforcement of this section.

Approved _____, 2013

Governor