

SUMMARY OF NEW ENVIRONMENTAL LEGISLATION 2006

CHAPTERED BILLS THAT WILL IMPACT CALTRANS

General Environmental

Senate Bill 1535: Fish and Game Filing Fee

Amendments: Amends Sections 104, 710, 710.5, 710.7, 711, 711.2, and 711.4, adds Section 106, repeals Sections 208 and 209, and repeals and adds Section 206 and 207 of the Fish and Game Code (FGC).

Effect on the Department: This bill increases the Department of Fish and Game (DFG) filing fees for Environmental Impact Reports (EIR) to \$2,500, and for Negative Declarations (ND) and Mitigated Negative Declarations (MNDs) to \$1,800. The bill provides for an annual adjustment to the fees based on inflation, and eliminates the “De minimis” finding by the lead agency or certified regulatory program agency. The filing fees must be paid unless the project has no effect on fish or wildlife as determined by DFG. Project proponents who contend that a project will have no effect on fish or wildlife must contact DFG for its official determination and obtain documentation of the filing fee exemption. This bill took effect on January 1, 2007. Changes to procedures will be incorporated into the Standard Environmental Reference (SER) as soon as possible.

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/sen/sb_1501-1550/sb_1535_bill_20060929_chaptered.html

Senate Bill 648: CEQA: State Agency Review Period

Amendments: Amends Sections 21091 and 21165 of the Public Resources Code (PRC).

Effect on the Department: This bill clarifies that *State agency review period for environmental documents (EIRs, NDs, or MNDs) begins on the date that the State Clearinghouse distributes the environmental document (ED) to State agencies*. The bill also specifies that the State Clearinghouse shall determine the CEQA lead agency only if there is an active dispute among two or more public agencies as to which one of those agencies shall be the CEQA lead agency. Caltrans Environmental staff will need to coordinate the public comment period with the State Clearinghouse State Agency review period.

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/sen/sb_0601-0650/sb_648_bill_20050922_chaptered.html

Senate Bill 1843: California Coastal Act: San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy

Amendments: Amends Sections 30233, 30265, 30333.1, 30333.2, 30340.5, 32604, and 32605 of the Public Resources Code (PRC), adds PRC Section 30601.3, and repeals PRC Sections 30342, 30343, 30608.5, and 30713.

Effect on the Department: This bill allows the California Coastal Commission (Commission) to process a consolidated coastal development permit for a project that falls under the jurisdiction of both a local government with a certified local coastal program and the Commission. The applicant, local government and the Commission must agree to consolidate the permit action.

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/sen/sb_1801-1850/sb_1843_bill_20060918_chaptered.html.

Assembly Bill 1039: Environment: Bonds: Transportation

Amendments: Adds Sections 21080.12, 21080.14, 21080.16, and 21157.7 to the Public Resources Code (PRC) [the California Environmental Quality Act (CEQA)], repeals and adds Section 820.1 of the Streets and Highways Code (SHC), and repeals and adds Article 3.5 (commencing with Section 8650) of Chapter 3 of Part 4 of Division 5 of the Water Code (WC).

Effect on the Department: This bill authorizes a waiver of the State's right under the Eleventh Amendment to immunity from citizen lawsuit brought pursuant to federal law, for the narrow purposes of implementing two sections of the 2005 federal transportation reauthorization bill, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Section 6004 of SAFETEA-LU authorizes states to assume the U.S. Department of Transportation (DOT) Secretary's responsibility for categorical exclusions under the National Environmental Policy Act (NEPA). SAFETEA-LU Section 6005 names California as one of five states eligible to participate in the Surface Transportation Pilot Delivery Program, under which California may apply to assume the U.S. DOT Secretary's responsibilities for NEPA and other federal environmental laws. In addition, this bill provides for the exemption of specified State and local seismic retrofit transportation projects from CEQA, and allows the preparation of a Master Environmental Impact Report by the Department for a plan adopted by the Department for improvements to regional segments of State Highway 99.

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_1001-1050/ab_1039_bill_20060519_chaptered.html

Assembly Bill 1387: CEQA: Residential Infill Projects

Amendments: Adds Section 21081.2 to the Public Resources Code (PRC).

Effect on the Department: This bill amends CEQA to authorize a city or county as lead agency to approve a residential project on an urban infill site without having to mitigate or make a Statement of Overriding Consideration for significant impacts on traffic in an Environmental Impact Report (EIR) if specified criteria are met. Caltrans Local Development – Intergovernmental Review (LD-IGR) would continue to review these projects for impacts to the State Highway System.

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_1351-1400/ab_1387_bill_20060929_chaptered.html.

Biology

Senate Bill 857: Fish Passages

Amendments: Amends Section 5901 of the Fish and Game Code (FGC), and adds Article 3.5 (commencing with Section 156) to Chapter 1 of Division 1 of the Streets and Highways Code (SHC).

Effect on the Department: This bill created specific requirements for the Department with regard to fish passages and State highways. Please see DEA's Fish Passage website at: http://env-webgis/env/bio/html/fish_passage_index.htm.

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/sen/sb_0851-0900/sb_857_bill_20051006_chaptered.html.

Cultural Resources

Senate Bill 922: Public Records: California Native American Places: Archaeological Information

Amendments: Amends Sections 6254, 6254.10, 65352.3, 65560, and 65562.5 of the Government Code (GC).

Effect on the Department: This bill expands the confidentiality of information about California Native American sites beyond archaeological sites to include cultural, spiritual, ceremonial sites, features, and objects. The bill specifies that information regarding the types of sites described in Public Resources Code (PRC) Sections 5097.9 and 5097.993 and information resulting from consultation between a State or local agency and a California Native American tribe, held by the agency, are exempt from disclosure under the California Public Records Act.

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/sen/sb_0901-0950/sb_922_bill_20051007_chaptered.html.

Senate Bill 1359: Subsurface Installations: Excavations

See Senate Bill 1359 below under Hazardous Waste for further information.

Assembly Bill 2641: Native American Human Remains and Multiple Human Remains

Amendments: Amends Sections 5097.91 and 5097.98 of the Public Resources Code (PRC)

Effect on the Department: This bill amends the portion of the PRC that outlines the process for conferring with Most Likely Descendants (MLDs) when Native American human remains are discovered. The law as amended does not change the Department's process, but does explicitly state expectations or requirements for compliance. Assembly Bill 2641 specifies possible treatments that the MLDs may prefer, and the requirement to ensure protection of reburials by either filing a record with the Native American Heritage Commission (NAHC), the county, or by designating the area as an open space, conservation, or easement area.

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_2601-2650/ab_2641_bill_20060930_chaptered.html.

Hazardous Waste

Senate Bill 1359: Subsurface Installations: Excavations

Amendments: Amends Sections 4216, 4216.2, 4216.3, 4216.4, and 4216.7 of the Government Code (GC).

Effect on the Department: This bill relates to excavations around subsurface installations and requires changes in hazardous waste site investigation procedures and archaeological excavations. In addition to current law requiring that excavators identify the exact location of subsurface installations prior to excavation, this bill requires excavations within 10 feet of high-priority subsurface installations (defined as certain high-pressure natural gas pipelines, petroleum pipelines, pressurized sewage pipelines, high-voltage electric supply lines, conductors or cables, and hazardous materials pipelines) have the exact location verified on-site with the pipeline operator prior to excavation.

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/sen/sb_1351-1400/sb_1359_bill_20060929_chaptered.html

CHAPTERED BILLS FOR INFORMATION ONLY

General Environmental

Senate Bill 1360: County Records: Conservation Easement Registry

Amendments: Amends Section 27255 of the Government Code (GC), and adds Article 3 (commencing with Section 5096.520) to Chapter 1.695 of Division 5 of the Public Resources Code (PRC).

Summary: This bill requires the Secretary of the Resources Agency to establish a central public registry of all conservation easements held or required by the State, or purchased with State grant funds after January 1, 2006. The registry shall be available to the general public via the Internet on or before January 1, 2009. When it becomes available, the registry will facilitate the Department's access to information for environmental analysis,

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/sen/sb_1351-1400/sb_1360_bill_20060928_chaptered.html.

Assembly Bill 1992: Solid Waste: Dumping

Amendments: Amends Sections 117555 and 117560 of the Health and Safety Code (HSC) and the heading of Article 6 (commencing with Section 117550) of Chapter 4 of Part 13 of Division 104 of the HSC, repeals and adds HSC Section 117550, and amends Sections 374a, 374.3, 374.4, and 374.7 of the Penal Code (PC).

Summary: This bill expands the prohibition against illegal garbage dumping on private property, and increases the maximum fines for the second and third illegal dumping offenses,

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_1951-2000/ab_1992_bill_20060922_chaptered.html.

Assembly Bill 2140 : General Plans: Safety Elements

Amendments: Adds Sections 8685.9 and 65302.6 to the Government Code (GC).

Summary: This bill authorizes local officials to include federally recognized Hazard Mitigation Plans (HMP) as part of their safety elements. The bill also prohibits the State from exceeding its share of disaster costs if a city or county has not adopted an HMP.

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_2101-2150/ab_2140_bill_20060929_chaptered.html.

Air Quality

Assembly Bill 1430: Air Contaminants

Amendments: Amends Section 39607.5 of the Health and Safety Code (HSC).

Summary: The bill requires the State Air Resources Board's (ARB) Advisory Committee on Environmental Justice to review each methodology for use by air pollution control districts and air quality management districts to calculate the value of air emission reductions credits (ERC) updated by ARB. The bill is designed to ensure that any methodology used to create ERCs will fairly address air quality impacts on low-income communities and communities with a significant minority population.

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_1401-1450/ab_1430_bill_20060930_chaptered.html.

Biology

Assembly Bill 984: Tamarisk Plant Control

Amendments: Adds Part 11 (commencing with Section 12999) to Division 6 of the Water Code (WC).

Summary: This bill authorizes the Department of Water Resources, in collaboration with the federal government and other specified entities, to prepare a plan to control or eradicate tamarisk in the Colorado River watershed and to reestablish native vegetation.

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_0951-1000/ab_984_bill_20060929_chaptered.html.

Assembly Bill 2479: Noxious and Invasive Weeds

Amendments: Amends Section 7271 of the Food and Agricultural Code (FAC).

Summary: This bill increases the percentage of the Noxious Weed Management Account funds that shall be made available to the Department of Food and Agriculture to ten percent.

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_2451-2500/ab_2479_bill_20060918_chaptered.html.

Assembly Bill 2485: Fish and Game: Sea Otters

Amendments: Amends Section 5650 of the Fish and Game Code (FGC), adds Sections 4501 and 12003.2 to the FGC, and adds and repeals Article 5.5 (commencing with Section 18750) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code (RTC).

Summary: Establishes the California Sea Otter Fund, to be funded through a voluntary tax check-off and other sources, to provide funds for increased enforcement and research to protect sea otters. Increases penalties for illegal taking of sea otters, and requires disclosures on cat litter sold in California.

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_2451-2500/ab_2485_bill_20060918_chaptered.html.

Assembly Bill 2746: Natural Resources: Mitigation for Adverse Impacts

Amendments: Adds Chapter 4.6 (commencing with Section 65965) to Division 1 of Title 7 of the Government Code (GC).

Summary: This bill allows the State or a local public agency to authorize a nonprofit organization to hold title to and manage mitigation property. Currently, this bill is being narrowly interpreted, and the Department will be seeking a bill in the new Legislative session to expressly provide this authority to Caltrans.

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_2701-2750/ab_2746_bill_20060928_chaptered.html.

Geology

Senate Bill 668: Mining

Amendments: Amends Section 8899.12, 8899.14, 65302, and 65302.5 of the Government Code (GC), Section 10295.5 of the Public Contract Code (PCC), repeals and adds PCC Section 20676, amends Sections 603.1, 607, 611, 661, 2003, 2207, 2692, 2705.5, 2714, 2716, 2728, 2761, 2774, 2796.5 and 30404 of the PRC, adds PRC Section 2772.7, and repeals and adds PRC Section 2773.2.

Summary: This bill amends the Surface Mining and Reclamation Act (SMARA) to clarify existing provisions prohibiting mining operators from selling mined materials to the State unless the mine is on the Department of Conservation's (DOC) list, and prohibits the State from contracting with a person or firm that obtains material from a surface mine unless the mine is on the DOC list.

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/sen/sb_0651-0700/sb_668_bill_20060930_chaptered.html

Hazardous Waste

Senate Bill 354: Hazardous Materials Release: Remediation

Amendments: Amends Section 24501.1 of the Health and Safety Code (HSC)

Summary: This bill amends the California Land Environmental Restoration and Reuse Act (CLERRA) to delete exclusions from the definition of “property” in the Act, thereby including the cleanup of brownfield sites under the oversight of a Regional Water Quality Control Board or the Department of Toxic Substances Control as “property” under CLERRA.

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/sen/sb_0351-0400/sb_354_bill_20060928_chaptered.html

Senate Bill 989: Hazardous Material: Bona Fide Ground Tenant: Remedial Actions

Amendments: Amends Sections 25395.84 and 25395.85 of the Health and Safety Code (HSC), adds Article 7 (commencing with Section 25395.102) and Article 8 (commencing with Section 25395.109) to Chapter 6.82 of Division 20 of the HSC, and repeals Article 7 (commencing with Section 25395.105) of Chapter 6.82 of Division 20 of the HSC.

Summary: This bill amends the California Land Reuse and Revitalization Act of 2004 (CLRRA) to create a program for a bona fide ground tenant akin to the program currently available to a bona fide purchaser under the Act.

Bill Text: http://www.leginfo.ca.gov/pub/05-06/bill/sen/sb_0951-1000/sb_989_bill_20060927_chaptered.html.