

MINUTE ITEM

4/24/74
CRK

26. ACTION TO MAKE PERMANENT PREVIOUSLY ADOPTED EMERGENCY AMENDMENTS TO AND REPEAL OF PORTIONS OF REGULATIONS FOR PRESERVING AND ENHANCING THE ENVIRONMENT - W 20528.

After consideration of Calendar Item 25 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. ADOPTS REGULATIONS, AS SET OUT IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF, RELATING TO PRESERVATION OF THE ENVIRONMENT AND TO PREPARATION AND PROCESSING OF ENVIRONMENTAL DOCUMENTS.
2. DETERMINES THAT THE PROPOSED REGULATIONS WILL NOT CAUSE NEW COSTS TO LOCAL GOVERNMENT, PURSUANT TO REVENUE AND TAXATION CODE SECTION 2231.

Attachment:

Calendar Item 25 (8 pages)

CALENDAR ITEM

25.

4/74
CRK
W 20528

ACTION TO MAKE PERMANENT PREVIOUSLY ADOPTED
EMERGENCY AMENDMENTS TO AND REPEAL OF PORTIONS OF
REGULATIONS FOR PRESERVING AND ENHANCING THE ENVIRONMENT

On December 20, 1973 (Minute Item 28, page 1097), the Commission adopted emergency amendments to its regulations in 2 Cal. Adm. Code, Article 10 and repealed Article 11.

Compliance has been had with Government Code Sections 11423-25, relating to publication, opportunity for review and comment by the public and notification to the Rules Committee of each house of the Legislature.

EXHIBIT: A. Proposed Article 10, California Administrative Code,
Title 2.

IT IS RECOMMENDED THAT THE COMMISSION:

1. ADOPT REGULATIONS, AS SET OUT IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF, RELATING TO PRESERVATION OF THE ENVIRONMENT AND TO PREPARATION AND PROCESSING OF ENVIRONMENTAL DOCUMENTS.
2. DETERMINE THAT THE PROPOSED REGULATIONS WILL NOT CAUSE NEW COSTS TO LOCAL GOVERNMENT, PURSUANT TO REVENUE AND TAXATION CODE SECTION 2231.

Attachment: Exhibit "A"

STATE LANDS COMMISSION
STATE LANDS DIVISION100 L STREET
SACRAMENTO, CALIFORNIA 95814ORDER AMENDING REGULATIONS OF
THE STATE LANDS COMMISSION

Pursuant to the authority vested by Section 6371 and 21082 of the Public Resources Code, and to implement, interpret, or make specific Sections 21000 through 21174 of that Code and of Division 6, Title 14, California Administrative Code, the California State Lands Commission hereby amends Article 10 of its regulations, as follows, and repeals Article 12 thereof.

The emergency amendments to Article 10 as adopted by the Commission in its Resolution of December 20, 1973, (Minute Item 28, Page 1097), are hereby made permanent, and Section 2907, is hereby amended in its entirety; said Article thus reading as follows:

California Administrative Code
Title 2, Administration
Division 3, State Property Operations

ARTICLE 10

REGULATIONS FOR PRESERVING AND ENHANCING THE ENVIRONMENT

2901. AUTHORITY AND PURPOSE.

The authorities for regulations contained in this article are Division 13 of the Public Resources Code, California Environmental Quality Act (CEQA; Division 6, Part 1, Chapter 4.5 of the Public Resources Code; Chapter 3, Division 6, Title 14, of the California Administrative Code, hereafter referred to as State Guidelines, and the purpose is to prescribe implementing regulations and procedures.

2902. APPLICABILITY.

This article is applicable to all actions of the Commission except where inconsistent with law and regulations of the Commission.

2903. PURPOSE AND SCOPE.

(a) Purpose. To prescribe procedures for the orderly evaluations of projects coming before the Commission and for the preparation of environmental documents.

(b) Scope. These regulations do not necessarily repeat definitions, policies, and procedures contained in CEQA or in the State Guidelines; they should be read together.

2904. INTENT.

It is the intent of the Commission in any action it takes to comply fully with the legislative findings and declarations set forth in Public Resources Code

Sections 21000 and 21001. To that end, this article and the procedures set forth herein shall be administered to effect that legislative policy.

2905. DEFINITIONS AND ABBREVIATIONS.

Unless otherwise defined herein, words used in this article shall have the meaning ascribed to them in the State Guidelines. In addition, the following definitions not contained in the State Guidelines are:

- (a) Commission - The California State Lands Commission.
- (b) Division - The State Lands Division.
- (c) Applicant - A person or other entity desiring action by the Commission.
- (d) Application - A written proposal submitted by an Applicant for Commission action.
- (e) EDS - Environmental Data Statement which is used by the Division in conducting its initial studies.
- (f) DEIR - Draft Environmental Impact Report.
- (g) EIR - Environmental Impact Report.
- (h) Environmental Documents - Any document or documentation affecting Commission action, including EDS's, DEIR's, EIR's, Negative Declarations, proposed Exemptions, Notices of Completion and Notices of Determination.
- (i) Calendar Item - A statement of facts and staff recommendation for Commission action.

2906. LEAD AGENCY.

(a) Public Agency applicants for Commission action shall be the Lead Agency for the project, if no other agency is so designated, and will perform the duties prescribed in Section 15066 of State Guidelines. (See 14 Cal. Adm. Code 15038 for definition of public agency.)

(b) The State Lands Commission shall be the Lead Agency for projects to be undertaken by a non-governmental person who is an applicant for Commission action, unless another agency has been so designated, and for projects to be directly undertaken by the Commission.

2907. ENVIRONMENTAL DOCUMENTS

(a) When Commission is not the Lead Agency

Unless specifically exempt by law, State Guidelines, or these Regulations, a Lead Agency involved in undertaking or approving a project, which also requires action by the State Lands Commission, shall comply with 14 Cal. Adm. Code 15066 and provide the Commission with the following:

- (1) One advance copy of the Initial Study if required under 14 Cal. Adm. Code 15080; and
- (2) One copy of any Negative Declaration and Notice of Determination prepared pursuant to 14 Cal. Adm. Code 15083; or

- (3) One copy of any draft EIR together with a copy of the Notice of Completion or Notice of Intent prepared pursuant to 14 Cal. Adm. Code 15085;
- (4) One copy of the final EIR, 14 Cal. Adm. Code 15085(e); and
- (5) One copy of the Notice of Determination required by 14 Cal. Adm. Code 15085(g), together with a copy of the Statement of Overriding Consideration, if prepared, as provided by 14 Cal. Adm. Code 15088.
- (6) One copy of any other Notice pertaining to the project which is prepared pursuant to 14 Cal. Adm. Code 15087.

(b) When the Commission is the Lead Agency

(1) An Applicant for any Commission action that is subject to the requirements of CEQA shall initially prepare, or cause to be prepared at his own expense, an Environmental Data Statement in such form as shall be prescribed by the Division. The Statement shall be filed with the application as a part thereof.

(2) When a proposed application for Commission action involves a major project, as determined by the Division; e.g., a marine terminal facility or a cross-country transmission line, an Applicant for Commission action that is subject to the requirements of CEQA shall prepare or cause to be prepared at his own expense a Draft Environmental Impact Report. Thirty-five copies thereof shall be filed with the application. The draft EIR shall contain the information outlined in 14 Cal. Adm. Code 15141-145, inclusive. In complying with Section 15144, persons or entities preparing a draft EIR shall consult with other responsible agencies as required by 14 Cal. Adm. Code 15066.

2908. DETERMINING SIGNIFICANT EFFECT.

When the Commission is Lead Agency, the Division shall conduct an initial study in order to determine whether the project may have a significant effect on the environment. If the Division recommends and the Commission finds that the proposed action will have no possible significant effect, no further action under CEQA or these regulations is required.

2909. NEGATIVE DECLARATION.

(a) Applicants for Commission action claiming that a proposal is a non-project, a ministerial project, an emergency project, or is categorically exempt, must provide documentary evidence to show such status as an exhibit to the Application. If any of the conditions enumerated in 14 Cal. Adm. Code 15082 are found to exist, and the proposal is not otherwise exempt, the Division will then initially determine whether a Negative Declaration is appropriate and make recommendation to the Commission.

(b) A Negative Declaration is required if a project which ordinarily would be expected to have a significant effect on the environment is surrounded by peculiar circumstances which nullifies such significance. While the Negative Declaration should not exceed one page in length, it should be supported by ample background and study material.

2910. EXEMPTIONS FROM REQUIREMENTS OF CEQA.

The following activities or projects which may become the subject of a proposed Commission action are declared to be exempt from the provisions of CEQA; provided that such action shall not authorize substantial change in an existing structure or facility, or in the use thereof.

(a) Categorical Exemptions

Class 1. Any existing structure or facility that is in an acceptable state of repair and there is no evidence of record to show injury to adjacent property, shoreline erosion, or other types of environmental degradation. This is intended to cover actions of the Commission which in effect authorize continued operation, repair, maintenance or minor alteration of any existing public or private structure, facility, land fill or equipment which meets the above criteria.

Class 2. Replacement or reconstruction of an existing structure or facility on the same site and substantially for the same purpose and capacity; including, but not limited to piers, wharves, floats, buried pipelines and appurtenances, aerial cables, conduits, boathouses, bridges, dolphins and roads.

Class 3. New construction of small structures; including, but not limited to:

(1) An uncovered pier, float or dock that will occupy no more than 1,000 square feet of tide and submerged land, including the area of use;

(2) A floating dock or boathouse, restricted to non-commercial or recreational use, that will occupy no more than 3,000 square feet of tide and submerged land, including the area of use;

(3) A single small boat mooring buoy;

(4) A floating platform used solely for swimming;

(5) Buoys for delineating a safety area or designating speed zones; provided that public navigational and fishing rights are not affected.

Class 4. Minor Alterations to Land. Periodic maintenance dredging operations, including, but not limited to, wharf, marina and navigational projects.

Class 5. Minor encroachment permits; including, but not limited to, rebuilding or repair of levees or other protective structure, including minor dredging for material.

Class 6. Information Collection.

(1) A core hole drilling operation to obtain foundation design data, to gather geological, physical, chemical, or biological information precedent to environmental clearance; or core hole drilling for purposes of mineral evaluation under Public Resources Code Section 6401(b).

(2) Minor excavation and depositional operation for scientific studies in the aquatic environment.

(b) Ministerial Projects.

(1) Rights-of-Way issued pursuant to Public Utilities Code Sections 7553, 7901 and 10155.

(2) Reservations of lands for highways or for the protection of or material for highways, pursuant to Streets and Highways Code Section 101.5.

(c) Emergency projects as described in 14 Cal. Adm. Code 15071. In addition, a right of entry permit is exempt if the Division determines it to be necessary for investigating the emergency and for implementation of projects (e.g., dike, breakwater, firebreak, etc.) that are found to be necessary to mitigate the emergency.

(d) Non-project. The following types of proposals or activities which may appear on the Commission's agenda are non-projects and therefore exempt:

(1) A sale, lease or permit which does not authorize or present a plan for any physical structure, improvement or change in the environmental setting. Examples: An ecological preserve; a sale of land to a buyer who certifies that he has no plan for development; a water hole site for the enhancement of wildlife; an underwater park; a wilderness area.

(e) Settlements of title and boundary problems by the Commission and exchanges of land or leases issued in connection therewith are exempt from the provisions of CEQA by Public Resources Code Section 6371.

2911. GENERAL PLAN FOR USE OF LAND.

An Applicant to purchase State land shall submit a general plan which shall be a comprehensive description of the current and proposed use thereof. This description will include, but not necessarily be limited to, the following:

(a) Description of all structures or land improvements that may exist on the State land and their current use.

(b) Dated photographs showing all existing structures and appurtenances in the general area.

(c) Statement of the primary objective, purpose or reason for the proposed use.

(d) Description of proposed construction, to include new structures, land improvements, or alterations to existing improvements, and use.

(e) Plans and elevations of (1) existing structures, and (2) proposed construction.

(f) A copy of the city or county building, variance, or use permit required for all operations and structures, existing or proposed, on the State land.

(g) Beginning and completion dates for proposed construction, prospecting, mining, etc.

An EDS may be required by the Division after the Plan has been reviewed.

2912. TIME ELEMENT FOR THE REVIEW OF EIR's.

Sixty (60) calendar days shall be allowed for the review of DEIR's by public agencies and the general public, and thirty (30) calendar days shall be provided for public and private response to a final EIR before a decision on the project is made by the State Lands Commission.

2913. PUBLIC HEARINGS.

Whenever, due to unusual circumstances, it is determined that a public hearing on the environmental aspects of a proposed Commission action is indicated, the Commission shall determine whether a regular meeting of the Commission will suffice or whether a special hearing at a time and location that will elicit the greatest response from the affected public is indicated. If a special hearing is found desirable, it shall be held in full compliance with Section 15165 of the Guidelines.

2914. EXPENSES.

An Applicant for a Commission action will be required to defray all costs and expenses in connection therewith, including the cost of surveys to provide environmental data, and expenses incurred in preparing, processing or reviewing an environmental document. Such requirement is a condition for the action requested and therefore not mandated within the purview of Revenue and Taxation Code Section 2231. The following minimum rates are established and they do not include expenses that are unrelated to environmental considerations.

(a) Non-governmental Persons Applying for Commission Action.

<u>Type of Action</u>	<u>Minimum Amount</u>
Commercial or Industrial Lease	\$200
Non-Commercial Lease	160
Right-of-Way	160
Grazing or Agricultural Lease	100
Salvage Permit	160
Protective Structure Permit	200
Recreational Pier or Use Permit	80
Extractive and Exploratory Lease or Permit	100
Action Not Listed Above	100

(b) The above rates apply even though the Applicant provides an EDS which must be evaluated and processed by the Division. If the Division is

required to prepare or cause to be prepared an EIR without Applicant having submitted an EDS, a minimum initial deposit of \$1,500.00 will be required with the application for Commission action. The costs of preparing and processing a DEIR, EIR or Negative Declaration, as appropriate, shall be paid from such deposit. If the costs exceed the deposit, the Applicant shall remit such excess costs upon demand, and if the actual costs are less than such deposit, the unexpended portion shall be refunded.

(c) The above actions and rates therefor include applications for lease renewals, amendments, assignments or subletting approvals, where such action may cause significant effect to the environment.

2915. AVAILABILITY OF ENVIRONMENTAL DOCUMENTS.

Environmental documents prepared by the Division shall be available for public inspection at the Office of the Division upon request during normal working hours. Copies shall be made available to the general public for the actual cost to the Commission in meeting requests for the copies.