

MINUTE ITEM

3/31/75  
CRK

32. REPEAL AND ADOPTION OF REGULATIONS REGARDING THE PRESER-  
VATION AND ENHANCEMENT OF THE ENVIRONMENT - W 20528.

After consideration of Calendar Item 30 attached, and upon motion  
duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. DETERMINES THAT THERE HAS BEEN COMPLIANCE WITH GOVERNMENT  
CODE SECTIONS 11423 THROUGH 11425 RELATING TO PUBLICATION,  
OPPORTUNITY FOR REVIEW AND COMMENT BY THE PUBLIC AND  
NOTIFICATION TO THE RULES COMMITTEE OF EACH HOUSE OF THE  
LEGISLATURE AND OTHER INTERESTED PERSONS.
2. ADOPTS REGULATIONS, AS SET OUT IN EXHIBIT "A" ATTACHED  
AND BY REFERENCE MADE A PART HEREOF, RELATING TO THE  
PRESERVATION AND ENHANCEMENT OF THE ENVIRONMENT AND TO  
THE PREPARATION AND PROCESSING OF ENVIRONMENTAL DOCUMENTS.
3. DETERMINES THAT THE PROPOSED REGULATIONS WILL NOT CAUSE  
NEW COSTS TO LOCAL GOVERNMENT, PURSUANT TO REVENUE AND  
TAXATION CODE SECTION 2231.

Attachment:

Calendar Item 30 (23 pages)

REPEAL AND ADOPTION OF REGULATIONS REGARDING THE  
PRESERVATION AND ENHANCEMENT OF THE ENVIRONMENT

In compliance with Government Code Sections 11423 through 11425, and pursuant to the Commission's authorization of January 30, 1975 (Minute Item 15, page 87), a hearing was scheduled on February 21, 1975 at 1807 - 13th Street, Sacramento. A notice advising of the hearing was duly published. The purpose of the hearing was to receive written statements or arguments regarding the proposed repeal and adoption of permanent regulations relating to the preservation and enhancement of the environment and the preparation and processing of environmental documents. The proposed regulations are on file in the office of the State Lands Commission and by reference made a part hereof. No person appeared and no written comment was received.

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

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT THERE HAS BEEN COMPLIANCE WITH GOVERNMENT CODE SECTIONS 11423 THROUGH 11425 RELATING TO PUBLICATION, OPPORTUNITY FOR REVIEW AND COMMENT BY THE PUBLIC AND NOTIFICATION TO THE RULES COMMITTEE OF EACH HOUSE OF THE LEGISLATURE AND OTHER INTERESTED PERSONS.
2. ADOPT REGULATIONS, AS SET OUT IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF, RELATING TO THE PRESERVATION AND ENHANCEMENT OF THE ENVIRONMENT AND TO THE PREPARATION AND PROCESSING OF ENVIRONMENTAL DOCUMENTS.
3. DETERMINE THAT THE PROPOSED REGULATIONS WILL NOT CAUSE NEW COSTS TO LOCAL GOVERNMENT, PURSUANT TO REVENUE AND TAXATION CODE SECTION 2231.

EXHIBIT "A"

REPEAL AND ADOPTION OF NEW REGULATIONS  
OF THE STATE LANDS COMMISSION PERTAINING  
TO PRESERVING AND ENHANCING THE ENVIRONMENT  
Title 2, Division 3, Article 10 of the California Administrative Code

ARTICLE 10

REGULATIONS FOR PRESERVING AND ENHANCING THE ENVIRONMENT

2901. AUTHORITY, PURPOSE AND SCOPE.

(A) The purpose of these regulations is to provide the State Lands Commission and the State Lands Division with definitions and procedures for orderly environmental evaluations to be used in the implementation of: Division 13 of the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.); Division 6, Part 1 of the Public Resources Code; and the State EIR Guidelines (14 California Administrative Code Sections 15000 et seq.).

(B) In addition to the regulations set forth herein, the Division, with the approval of the Commission, may adopt specific internal operating procedures for the handling and processing of environmental documents.

2902. APPLICABILITY TO STATE EIR GUIDELINES.

The State EIR Guidelines (14 California Administrative Code Sections 15000 et seq.) are hereby incorporated by reference as though set forth herein in full, except to the extent that they are modified or supplemented by this Article.

2903. DEFINITIONS.

Whenever the following words are used in these regulations, unless otherwise defined herein, they shall have the meaning ascribed to

them in the State EIR Guidelines..

(A) Commission - The California State Lands Commission.

(B) Discretionary Project - A discretionary project is one which requires the exercise of judgment, deliberation, or decision on the part of a public agency in the process of approving or disapproving a particular activity.

Discretionary projects include the granting of prospecting permits, leasing of State land, and well approvals.

(C) Division - The California State Lands Division.

(D) Emergency Project - An emergency project is one of the following:

(1) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, replace or demolish property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 of Division 1, Title 2 of the Government Code (Sections 8550 and following).

(2) Projects undertaken to effect emergency repairs, to maintain in service, public service facilities.

(3) Projects undertaken as immediate action necessary to prevent or mitigate an emergency.

An emergency means a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to the life, health, property, essential public services, or the environment.

- (E) Environmental Data Statement - EDS - A statement provided to the public agency by an applicant which generally describes the project, locates the project, and describes the existing environment.
- (F) Environmental Impact Report - EIR - A detailed informational document setting forth the environmental effects and considerations pertaining to a project as specified in Section 21100 of CEQA and Sections 15141 to 15146, inclusive, 14 California Administrative Code.
- (1) Draft EIR means an EIR containing the information specified in Section 15141, 15142, 15143 of the State EIR Guidelines and Section 2909 of these regulations.
- (2) Final EIR means an EIR containing the following:
- (a) The Draft EIR or a revision of the draft.
  - (b) Comments and recommendations received on the Draft EIR either verbatim or in summary.
  - (c) A list of persons, organizations and public agencies commenting on the Draft EIR.
  - (d) The responses of the Lead Agency to significant environmental points raised in the review and consultation process.
- (G) Environmentally Significant Lands. - Those lands within the jurisdiction of the Commission which have been identified to have significant environmental values as defined by the Public Resources Code, Division 6, Chapter 4.5, Sections 6370 through 6378 inclusive.

(H) Initial Study - An evaluation prepared by the Lead Agency pursuant to Paragraph B, Section 2907 of these rules and regulations to determine whether an EIR or ND must be prepared.

(I) Significant Environmental Values - Characteristics or features of land which are worthy of permanent protection. These values may include, but are not limited to scenic, historical, natural, or aesthetic values, etc, of State-wide interest.

2904. APPLICATION OF CEQA TO PROJECTS.

(A) Emergency, Ministerial and Categorically Exempt Projects

When a proposed public or private project is either emergency, ministerial, or categorically exempt, these regulations and CEQA shall not apply, and a ND or EIR need not be prepared. These regulations shall not apply to settlements of title and boundary problems and exchanges in connection therewith.

(B) Ongoing Project

(1) An ongoing project, which is not categorically exempt, shall require an ND or EIR when the project may have a significant effect upon the environment, and when either of the following conditions exist:

(a) A substantial portion of public funds allocated for the project has not been spent and it is still feasible to modify the project to mitigate potentially adverse environmental effects, or to

choose feasible alternative methods to the project including the "no project" alternative or halting the project; provided that this section shall not apply to projects which are under the jurisdiction of the National Environmental Policy Act (NEPA) and which, through regulations promulgated under NEPA, were held to be too far advanced at the time of NEPA's effective date to require an EIS.

(b) A public agency proposes to modify the project in such a way that the project might have a new significant effect on the environment.

(2) A project, as defined in Section 15037, 14 California Administrative Code, as it relates to contracts, where the permit or other entitlement was issued or contract approved, prior to April 5, 1973, shall not require an EIR or ND, subject only to the following two provisions:

(a) CEQA expressly does not prohibit a public agency from considering environmental factors in connection with the approval or disapproval of a project, or from imposing reasonable fees on the appropriate private person or entity for preparing an environmental document.

(b) Where issuance or approval occurred prior to December 5, 1972, and prior to said date the project was legally challenged for non-compliance with CEQA, the project shall be

bound by the special rules set forth in  
Section 21170, Chapter 6, Division 13, of the  
California Public Resources Code (CEQA).

(C) Multiple and Phased Projects

Where individual projects are, or a phased project is to be undertaken and where the total undertaking comprises a project with significant environmental effect, the Division must prepare a single EIR for the ultimate project unless

- (1) The project's environmental effect will be better known at the conclusion of a particular phase, and
- (2) The Commission retains discretionary approval over all phases.

Where an individual project is a necessary precedent for action on a larger project, or commits the Commission to a larger project, with significant environmental effect, an EIR must address itself to the scope of the larger project. Where one project is one of several similar projects of a public agency, but is not deemed a part of a larger undertaking or a larger project, the agency may prepare one EIR for all projects, or one for each project, but should discuss on the cumulative effect in either case.

2905. RESPONSIBILITIES OF THE COMMISSION FOR PREPARING ENVIRONMENTAL DOCUMENTS.

(A) General Responsibilities of the Commission

Whether the Commission, as defined in these regulations, bases its initial study and determination to prepare an ND or EIR on its own data and information, or on that supplied by an applicant, the Commission is responsible entirely for the adequacy, content and objectivity of this data and information. Whether the Commission prepares or contracts to prepare a draft EIR or ND, the Commission is entirely responsible for the content, adequacy and objectivity of that final EIR or ND.



(B) Projects of the Commission or those which the Commission has direct Discretionary Approval

- (1) When the Commission proposes to approve any project, the Division shall determine whether that project may have significant effect. If the Division determines that the project may have significant effect, it shall prepare or contract to prepare the appropriate environmental documents as per Sections 2906 and 2907 of these regulations.
- (2) When the Commission proposes to carry out or approve its own project which may have a significant effect on the environment, the Division shall prepare by its own efforts, or by direct contract with an independent consultant for preparation of the draft EIR.
- (3) Where a non-exempt project is to be carried out by a non-governmental person, subject to approval, financial support, or some other involvement by the Commission, the Division will prepare environmental documents by its own effort or by direct contract with an independent consultant. However, the Division shall require the applicant to provide information and data to determine if the project may have significant effect. The Division may also require the applicant to specify those agencies having jurisdiction by law.
- (4) Where the project is to be undertaken by a local or another State agency, the Commission shall not approve

the project unless the State or local agency submits a copy of the following:

- (a) Notice of Exemption; or
- (b) Environmental Documents
  - (i) A copy of the Draft EIR
  - (ii) A Notice of Completion
  - (iii) A copy of the Final EIR
  - (iv) A Notice of Determination.

These documents should be submitted with the request for approval. The same documents should be submitted where federal funds are involved, but only when the public agency has discretionary authority over the use of those funds.

2906. PROCEDURE FOR EVALUATION OF PROJECTS.

(A) Determining Exemption

For public or private activities the Division shall determine whether the activity is a categorical exemption (see Section 2908), is a non-project, or is an emergency project and therefore exempt from review under CEQA.

(B) Initial Study

If a project is not exempt from the requirements of CEQA, the Division shall conduct an initial study to determine if the project may have a significant effect on the environment. If any of the effects of a project may have a substantial adverse impact on the environment, regardless of whether the overall effect of the project is adverse or beneficial, then an environmental impact report shall be prepared where discretionary governmental action is involved.

If the project is to be carried out by a nongovernmental person, the Division may require such person to submit data and information which will enable the agency to make this determination.

(C) Negative Declaration

When the Initial Study indicates that the project will not have significant effect upon the environment, and the project is not exempt, the Division shall prepare a Negative Declaration by its own efforts.

(D) Decision to Prepare an EIR

If, after Initial Study and consultation, it appears that a project may have significant effect on the environment, the Division shall prepare either by its own efforts or contract to have prepared a Draft Environmental Impact Report.

(E) EIR Process

The following steps shall be followed after the decision is made that an EIR shall be prepared:

(1) Preparation of the EIR

If the project is to be carried out by either a public agency or private person, the EIR may be prepared in either of two ways:

- (a) The Division may prepare the Draft EIR itself, by its own effort. The applicant may be required to submit data and information necessary for the preparation of this document. However, the Division is responsible for the accuracy, completeness, and objectivity of this information and data. The Draft EIR submitted for public

review must reflect the independent judgment of the Division.

- (b) The Commission may elect to have the Draft EIR prepared by an independent consultant by contract with the Commission. In such case, the Commission shall submit a Request for Proposals (RFP) to at least three consultants, and evaluate all proposals in a like manner. The proposal receiving the best evaluation shall receive the contract nomination unless the Commission decides to reject all proposals. The Commission is responsible for the objectivity, accuracy, and completeness of the Draft EIR.

(2) Evaluation by the Commission

The Division upon receipt of comments on the Draft EIR shall evaluate these comments. Comments which are determined to be pertinent to the Draft by the Division shall be replied to and incorporated into the Final EIR. All comments to the Draft EIR received, shall be incorporated into or attached to the Final EIR.

(3) Preparation of Final EIR

The Division shall prepare the Final EIR. The contents of the final EIR are specified in Section 2909 of these regulations.

(4) Certification of Final EIR

The Commission shall certify that the final EIR has been completed in compliance with CEQA and the State EIR Guidelines and that the Commission has reviewed and considered the information contained in the EIR.

(F) Statement of Overriding Consideration

If the Commission decides to approve a project for which serious adverse consequences have been identified in the EIR, the Division shall make a Statement identifying the other interests that warrant the approval in the Commission's opinion. This statement shall become a portion of the Notice of Determination.

2907. CATEGORICAL EXEMPTIONS.

(A) Categorical Exemptions

The following activities or projects within the identified classes as set forth by the Resources Agency are found to be exempt by the Commission from the provisions of CEQA, provided they do not fall within the exceptions identified in Paragraph (B) of this Section. The following list supplements that list found in Article 8, 14 Cal. Adm. Code Sections 15100 to 15115, inclusive.

Class 1: Existing Facilities

Class 1 consists of the operation, repair, maintenance or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing, including but not limited to:

- (a) Remedial and well-maintenance work on oil and gas and geothermal wells involving the alteration of well casing; such as, perforating, cementing, casing repair or replacement, installation or removal of bridge plugs, and permanent packers or packers set to isolate producing intervals.

(b) Commission action involving an 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. The Commission may exclude from this Class any structure that has been erected without written authorization in the form of a lease or permit from the State Lands Commission.

Class 2: Replacement or Reconstruction

Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including but not limited to:

- (a) Replacement of a commercial structure with a new structure of substantially the same size and purpose.
- (b) Replacement of piers, wharves, floats, boat houses, and other marine facilities.

- (c) Replacement and reconstruction of aerial cables, conduits, bridges, dolphins and roads.

Class 3: New Construction of Small Structures

Class 3 consists of construction and location of single, new small facilities or structures and installation of small new equipment and facilities including but not limited to:

- (a) 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.
- (b) A single small boat mooring buoy.
- (c) A floating platform used solely for swimming.
- (d) Buoys for delineating a safety area or designated speed zones; provided that public navigational and fishing rights are not affected.

Class 4: Minor Alterations to Land

Class 4 consists of minor public or private alterations in the condition of land, water and/or vegetation which do not involve removal of mature, scenic trees except for forestry and agricultural purposes. Examples include, but are not limited to:

- (a) Periodic maintenance dredging, including but not limited to, wharf, marina, and navigational projects.

Class 5: Alterations in Land Use Limitations

Class 5 consists of minor alterations in land use limitations, except zoning, including but not limited to:

(a) Minor lot line adjustments, side yard and set back variances not resulting in the creation of any new parcel nor in any change in land use or density;

(b) Issuance of minor encroachment permits.

(i) Rebuilding or repair of levees or other protective structure.

(ii) Minor dredging of material for above purpose.

Class 6: Information Collection.

Class 6 consists of basic data collection, research, experimental management and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be for strictly information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted or funded.

(a) Core hole drilling operations to obtain foundation design data, or to gather data precedent to environmental clearance.

(b) Core hole drilling for purposes of mineral evaluation pursuant to Public Resources Code Section 6401(b).

Class 7: Actions by Regulatory Agencies for Protection of Natural Resources

Class 7 consists of actions taken by regulatory agencies as authorized by State law or local ordinance to assure the maintenance, restoration or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment. Examples include, but are not limited to, wildlife preservation activities of the State Department of Fish and Game. Construction activities are not included in this exemption.



Class 8: Action by Regulatory Agencies for Protection of Environment

Class 8 consists of actions taken by regulatory agencies, as authorized by State or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities are not included in these exemptions.

Class 9: Inspections

Class 9 consists of activities limited entirely to inspection to check for performance of an operation, or quality, health or safety of a project, including related activities such as inspection for possible mislabeling, misrepresentation or adulteration of products.

Class 10: Loans

Class 10 consists of loans made by the Department of Veterans Affairs under the Veterans Farm and Home Purchases Act of 1943, mortgages for the purchase of existing structures where the loan will not be used for new construction and the purchase of such mortgages by financial institutions.

The Commission has not found any activities within its jurisdiction exempt by means of Class 10.

Class 11: Accessory Structures

Class 11 consists of construction, or replacement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities.

Class 12: Surplus Government Property Sales

Class 12 consists of sales of surplus government property except for parcels of land located in an area of state-wide interest or potential area of critical concern as identified in the Governor's Environmental Goals and Policy Report prepared pursuant to Government Code Sections 65041, et. seq.:

- (a) Land swaps with other public agency, including, but not limited to, land swaps with the Federal Government.

Class 13: Acquisition of Lands for Wildlife Conservation Purposes

Class 13 consists of the acquisition of lands for fish and wildlife conservation purposes, including preservation of fish and wildlife habitat, establishing ecological reserves under Fish and Game Code Section 1580, and preserving access to public lands and waters where the purpose of the acquisition is to preserve the land in its natural condition.

Class 14: Minor Additions to Schools.

Class 14 consists of minor additions to existing schools within existing school grounds where the addition does not increase original student capacity by more than 25% or five classrooms, whichever is less. The addition of portable classrooms is included in this exemption.

The Commission has not found any activities within its jurisdiction exempt by means of Class 14.

Class 15. Functional Equivalent of an EIR

Class 15 consists of regulatory programs of public agencies whose purpose includes environmental protection and whose process

involves the functional equivalent of and EIR. To qualify for an exemption under this section, the public agency must have its process certified as a functional equivalent by the Secretary for Resources. The Secretary for Resources may withdraw the certification after notice and hearing pursuant to Government Code, Title 2, Division 3, Chapter 4.5.

(B) Exceptions

(1) Location. Class 3, 4, 5, 6 and 11 are qualified by consideration of where the project is to be located - a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may have impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, State or local agencies.

(2) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant - for example, annual additions to an existing building under Class 1.

(3) Environmentally Significant Lands. Projects normally exempt by Classes 3, 4, 5, 6 and 11 are found to be non-exempt when such projects occur on lands which the Commission has identified as having significant environmental values.

2908. CONTENTS OF ENVIRONMENTAL IMPACT REPORTS.

The contents of an EIR shall be as prescribed by the Commission, and written guidelines, therefor, shall be on file and available upon request at Division offices.

2909. EVALUATION OF ENVIRONMENTAL IMPACT REPORTS BY THE COMMISSION.

(A) Adequate Time for Review and Comment

The Division shall provide adequate time for other public agencies and members of the public to review and comment on an EIR.

(1) The review period for ND's and Draft EIR's shall be that period set pursuant to State EIR Guidelines.

(2) The review period for the Final EIR shall be 30 days, unless extended.

(3) A review period for an EIR does not require a halt in other planning activities related to a project. Planning should continue in conjunction with environmental evaluation.

(B) Commission Review of Environmental Documents

(1) When the Commission has jurisdiction by law, and is requested to comment upon a Draft EIR or EIS prepared by another public agency, the draft shall be reviewed by the Division and the comments shall be transmitted to the State Clearinghouse or other appropriate agency. The Division shall provide the State Clearinghouse with the name of the contact person who is primarily responsible and is available for further consultation.

(2) Reviewers should focus on the sufficiency of the EIR in discussing possible impacts upon the environment, ways in which adverse effects might be minimized, and alternatives to the project, in light of the intent of the act to provide decision-makers with useful information about such factors.

2910. ENVIRONMENTALLY SIGNIFICANT LANDS.

The following protective regulations apply to lands identified as significant pursuant to Public Resources Code Section 6370.1:

(A) The significant identification shall remain so long as the land is under the Commission's jurisdiction or until the Commission finds that the land no longer possesses significant environmental values. The Division may file an appropriate Notice of any change under Section 15087 of the State EIR Guidelines.

(B) The Division shall classify all environmentally significant lands into the following use categories:

Class A: Restricted Use - Natural areas where public use should be minimized in order to preserve the integrity of the natural environment as a whole.

Class B: Limited Use - Areas in which one or more closely related dominant, significant environmental values are present. Limited use which is compatible with and non-consumptive of such values may be permitted.

Class C: Multiple Use - Areas currently in multiple use which are less susceptible to environmental degradation than are Classes A and B, but nevertheless do possess significant environmental values.

In addition to the above classification system, the Division may add specific constraints and describe unique characteristics which may require special treatment in considering proposals for use of the land.

(C) Such additional protection of the significant environmental values as may be needed shall be incorporated in the terms of an agreement, lease or permit for use of the land.

(D) Proposals to use environmentally significant lands are exceptions under Section 15100.2 of the State EIR Guidelines to the categorical exemption rules. Therefore, Categorical Exemption Category Classes 3, 4, 5, 6 and 11 do not apply to these lands, and any Notice of Exemption which may be filed thereunder is invalid.

(E) Subject to Commission approval, and except where there is a dispute concerning ownership, the Division shall determine whether a proposed project on State lands, lies within the boundary of State land designated as environmentally significant.

#### 2911. FEES FOR ENVIRONMENTAL DOCUMENTS.

If the Division determines that an application or other procedure requires the preparation of an initial study, it shall estimate the cost of preparing and processing the initial study and the applicant or party initiating the procedure shall deposit the estimated cost with the Division before work on the initial study is begun.

If the Division determines that an application or other procedure requires the preparation of an Environmental Impact Report, it shall estimate the cost of preparing and processing such Environmental Impact Report or shall have the cost of such preparation and processing estimated by a consultant and submitted to the Division as part of a proposal to prepare an Environmental Impact Report; the applicant or party initiating the procedure shall deposit the estimated cost of preparing and processing the Environmental Impact Report with the Division before work on the Environmental Impact Report is begun.

In the event that a request is made to the Commission to offer, pursuant to competitive bid, a sales agreement, lease or other contract which requires the preparation of an Environmental Impact Report, the requestor

shall deposit with the Commission the estimated costs of preparing and processing the EIR. Such deposit shall be used to defray the cost of preparing and processing the EIR if the requestor is awarded the sales agreement, lease, or other contract, or if no award is made. If the sales agreement, lease, or other contract is awarded to a bidder other than the requestor, the requestor's deposit will be returned without interest thereon to the requestor after the awarding of the sales agreement, lease or other contract.

In the event that Division procedures require the preparation of an Environmental Impact Report before the involvement of an applicant or other party who will ultimately need to receive an approval or other entitlement for use from the Commission, such applicant or other party shall deposit with the State Lands Commission the costs of preparing and processing the Environmental Impact Report before the approval of other entitlement for use is granted by the Commission. Funds so deposited shall be used to defray the costs incurred by the Division in having prepared and processed the Environmental Impact Report.

All funds deposited with the Division pursuant to this section prior to the preparation of the document for which the funds are to be used shall be deposited in a special fund account maintained by the Division solely for this purpose and shall be used thereafter to defray the costs of preparing and processing said environmental documents.

In the event that funds deposited with the Division by an applicant or other party exceed the Division costs of preparing and processing the environmental documents, including fees paid to consultants, the excess funds will be returned to the applicant or other party without interest thereon,

after: (1) final Commission action upon the relevant approval or entitlement for use, or (2) withdrawal of the application or request.

**Disclaimer:**

The Commission has determined that there are no State mandated local costs in this regulation that require reimbursement under Section 2231 of the Revenue and Taxation Code because this regulation implements a mandate previously enacted by Statute. The Statutes creating the mandate are Chapter 1433 of the Statutes of 1970, and Chapter 1154 of the Statutes of 1972.