

CALIFORNIA COASTAL COMMISSION

425 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
TELEPHONE AND TDD (415) 904-5200

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August 22, 1997

TO: Commissioners and Interested Persons

FROM: Ralph Faust, Chief Counsel
Dorothy Dickey, Deputy Chief Counsel *DD*
John Bowers, Staff Counsel *JB*

SUBJECT: **Public Hearing on Proposed Adoption of Subchapter 9 of Chapter 5 of the Commission's Regulations**

For Commission Discussion and Possible Action on September 11, 1997

SUMMARY

On May 13, 1997, the Commission authorized commencement of a rulemaking proceeding to add a new Subchapter 9 to Chapter 5 of the Commission's regulations. (Exhibit 1.) If adopted by the Commission, the proposed regulations will establish procedures for issuance by the Commission of restoration orders pursuant to section 30811 of the Public Resources Code.

Specifically, section 13190 of the proposed new regulations defines the term "continuing resource damage" as it is used in section 30811. In common with the Commission's cease and desist order procedures in Subchapter 8 of Chapter 5 of its regulations, proposed section 13191 provides before a restoration order proceeding is commenced before the Commission for the submittal of a "statement of defense form" in which the alleged violator may respond to the allegations of the staff's violation investigation. As proposed, sections 13192 - 13195 provide procedures for the public hearing that Public Resources Code § 30811 requires to be held before the Commission may issue a restoration order. Proposed section 13196 specifies the contents of a restoration order. As proposed, Section 13197 provides for rescission or modification of restoration orders.

A copy of the proposed new regulations is attached. (Exhibit 2.) The Commission staff has taken the necessary procedural steps under the applicable sections of the Government Code (Govt. Code sections 11346.2-5.) to enable the Commission to consider whether to adopt the proposed changes at its September 11, 1997 meeting. See Notice of Intention to Amend (Exhibit 3.) and Initial Statement of Reasons (Exhibit 4.). Staff recommends that the Commission vote to adopt to sections 13190 through 13197 as proposed in Exhibit 2. The motion to adopt the amendments as proposed by staff appears on page 3.

MATERIALS PROVIDED FOR COMMISSION REVIEW

The following exhibits are being transmitted to the Commission attached to this staff report:

Exhibit 1 - Staff report to the Commission to obtain authorization to commence the subject rulemaking

Exhibit 2 - Text of the Proposed Subchapter 9 of Title 14, Chapter 5, of the California Code of Regulations

Exhibit 3 - Notice of Intention to Adopt Subchapter 9 of Title 14, Chapter 5, of the California Coastal Commission's Regulations

Exhibit 4 - Initial Statement of Reasons for Proposed Subchapter 9 of Chapter 5, of the California Coastal Commission's Regulations

As of the date of this staff report, no comments have been received from members of the public. Staff will respond to any comments received from the public prior to any Commission action on the proposed amendments.

OPTIONS FOR COMMISSION ACTION

The Commission has the following major options for action on September 11, 1997:

1. **Adopt Regulations as Proposed**

Hold the public hearing, close the hearing, consider the regulation and vote to adopt the proposed amended regulation. If the Commission adopts the proposed amendments, staff will submit the changes to the Office of Administrative Law for approval. If approved, the amendments would then be sent on to the Secretary of State for filing. The amendments would become effective 30 days after that filing.

2. **Reject Regulations as Proposed**

Hold the public hearing, close the hearing, consider the regulation and vote to reject the proposed amended regulation.

3. Modify Regulations In Minor Way(s) and Circulate Change(s) for Public Comment

Hold the public hearing, close the hearing, consider the regulation and vote to modify the proposed regulation in nonsubstantial or minor ways and direct staff to circulate the regulation for public comments as modified by those nonsubstantial or minor changes. The minimum public comment period would be 15 days. The Commission would then hold a public hearing at a future Commission meeting and vote on whether to adopt or reject the regulation as modified.

4. Modify Regulations In A Major Way and Circulate Change(s) for Public Comment

Hold the public hearing, close the hearing, consider the regulation and vote to modify the proposed regulation in a substantial or major way and direct staff to circulate the regulation for public comment as modified by the substantial or major change. Staff would submit a new notice to OAL and OAL would publish the notice, which would commence a new 45 day comment period. The Commission would then hold a public hearing at a future meeting and vote on whether to adopt or reject the regulations as modified.

STAFF RECOMMENDATION

The staff recommends that the Commission follow the first option identified and vote to adopt the regulations as proposed. The staff recommends that the Commission adopt the following resolution:

Resolution:

The Commission hereby adopts the proposed Subchapter 9 of Chapter 5 of the Commission's regulations. No alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to private persons than the proposed action.

MOTION

The appropriate motion for adoption is "I move that the Commission adopt the proposed Subchapter 9 of Chapter 5 of the Commission's regulations."

Staff recommends a YES vote. A majority of the Commissioners present is required to pass the motion. Approval of the motion means the amendments have been adopted as proposed.

GALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 AND TDD (415) 904-5200

MEMORANDUM

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DATE: April 23, 1997

TO: California Coastal Commissioners and Interested Persons

FROM: Ralph Faust, Chief Counsel
 Dorothy Dickey, Deputy Chief Counsel *DDickey*
 John Bowers, Staff Counsel *JB*

SUBJECT: **Commencement of Rulemaking Process for Chapter 5, Subchapters 8 and 9 of the Commission's Regulations**

Staff requests Commission authorization to commence a rulemaking proceeding to adopt and amend regulations to establish and modify standards for the administration of the Commission's enforcement program. A copy of the proposed new and modified regulations is attached as Attachments A and B. (PLEASE NOTE: In Attachments A and B, proposed additions are shown by underline, and proposed deletions are shown by strikethrough.)

COMMISSION CEASE AND DESIST REGULATIONS:

The proposed amendments to the Commission's existing cease and desist order regulations (Subchapter 8) are for the following purposes:

- (1) to expand the methods by which a notice of intent to commence a cease and desist order proceeding before the Commission may be served (section 13181(a));
- (2) to correct a typographical error (section 13184);
- (3) to bring the regulations into conformity with changes to Public Resources Code § 30810 enacted by the legislature in 1993 (SB 608; sections 13187(a)(2) and (a)(3)(B)); and
- (4) to establish a clear standard for when a person who is subject to a cease and desist order may commence a proceeding for the purpose of rescinding or modifying that order (section 13188(b)).

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| EXHIBIT NO. 1 |
| APPLICATION NO. April 23, 1997 Staff |
| Report to Commence the Rulemaking Process |
| for Ch.5, Subch. 9 |
| California Coastal Commission |

COMMISSION PROPOSED RESTORATION ORDER REGULATIONS:

Proposed new regulations (Subchapter 9, sections 13190-13197) would establish a process for the issuance of restoration orders pursuant to Public Resources Code § 30811. They are patterned closely after the Commission's existing cease and desist order regulations.

PROCEDURE:

Staff will initiate a rulemaking process pursuant to the Administrative Procedure Act (APA) (Govt. Code, § 11340, *et seq.*) to accomplish these regulatory changes and additions. The rulemaking process takes a number of months and involves various procedural steps. These include publication of notice, preparation of various documents required under the APA that must be made available concurrently with the notice, a public comment period of at least 45 days, an additional notice and comment period if the Commission makes substantive changes from those which were originally proposed, formal adoption, preparation of documents required under the APA after adoption of regulations, review by the Office of Administrative Law (OAL), and, if approved by OAL, filing of the amended regulations with the Secretary of State. Staff recommends that the Commission authorize that this process begin.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

Resolution:

The Commission hereby directs the staff to commence a process to 1) amend Chapter 5, Subchapter 8, and 2) adopt a new Chapter 5, Subchapter 9, of the California Coastal Commission's regulations.

Attachment

restord.doc

CALIFORNIA COASTAL COMMISSION

150 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
TELEPHONE AND TDD (415) 904-5200



(NOTE: The following underlined regulations are proposed for adoption.)

CALIFORNIA CODE OF REGULATIONS**TITLE 14. NATURAL RESOURCES****DIVISION 5.5. CALIFORNIA COASTAL COMMISSION****CHAPTER 5. COASTAL DEVELOPMENT PERMITS ISSUED BY****COMMISSION****SUBCHAPTER 9. PROCEDURES FOR THE ISSUANCE OF****RESTORATION ORDERS****§ 13190. Definition.**

The elements of the term "continuing resource damage," as such term is used in section 30811 of the Public Resources Code, shall have the following meanings:

- (a) "Resource" means any resource which is afforded protection under the policies of Chapter 3 of the Coastal Act, including but not limited to public access, marine and other aquatic resources, environmentally sensitive wildlife habitat, and the visual quality of coastal areas.

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| EXHIBIT NO. 2 |
| APPLICATION NO. Text of the Proposed |
| Subch. 9, of Title 14 Ch. 5, of Coastal Commission Regulations |
| California Coastal Commission |

(b) "Damage" means any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development.

(c) "Continuing," when used to describe "resource damage," means such damage which continues to occur as of the date of issuance of the restoration order.

Authority cited: Section 30333, Public Resources Code

Reference: Section 30811, Public Resources Code

§ 13191. Commencement of Restoration Order Proceeding Before the Commission.

(a) If the executive director believes that the results of an enforcement investigation so warrant, he or she shall commence a restoration order proceeding before the commission by providing any person whom he or she believes to have engaged in development activity as described in section 30811 of the Public Resources Code with notice of his or her intent to do so. Such notice of intent shall be given either as a provision of a staff report prepared pursuant to sections 13057 and/or 13075 of these regulations or by separate written communication delivered either (1) by certified mail, (2) by regular mail receipt of which is confirmed by subsequent oral communication either in person or by telephone, or (3) by hand, and shall include, at minimum, the information specified in sections 13196(a), (b), and (c) together with an explanation of the basis of the executive director's belief that the specified activity meets the criteria of section 30811. The notice of intent shall be accompanied by a "statement of defense form" that conforms to the format attached as Appendix A to Subchapter 8 of these regulations. The person(s) to whom such notice is given shall complete and return the

statement of defense form to the Commission by the date specified therein, which date shall be no earlier than 20 days from transmittal of the notice of intent.

(b) The executive director may at his or her discretion extend the time limit for submittal of the statement of defense form imposed by any notice of intent issued pursuant to subsection (a) of this section upon receipt within the time limit of a written request for such extension and a written demonstration of good cause. The extension shall be valid only to those specific items or matters that the executive director identifies to the requesting party as being exempt from the submittal deadline and shall be valid only for such additional time as the executive director allows.

Authority cited: Section 30333, Public Resources Code

Reference: Section 30811, Public Resources Code

§ 13192. Distribution of Notice of Hearings on Proposed Restoration Order.

At least ten (10) days prior to a hearing on a proposed restoration order, the executive director shall mail by regular mail a written notice of the date, time, and place of the initial hearing to all alleged violators at their last known address and to all members of the public who have requested in writing that they receive such notice, provided that no notice need be mailed to the alleged violator if the alleged violator has already received notice of the hearing in a staff report prepared by the executive director.

Authority cited: Section 30333, Public Resources Code

Reference: Section 30811, Public Resources Code

§ 13193. Contents of an Executive Director's Recommendation on Proposed Restoration Order.

(a) The executive director shall prepare a recommendation on a proposed restoration order.

(b) The executive director's recommendation shall be in writing and shall include, at minimum:

(1) a copy of any statement of defense form completed and returned to the Commission by the alleged violator(s) pursuant to section 13191;

(2) a brief summary of (A) any background to the alleged violation, (B) the allegations made by staff in its violation investigation, (C) a list of all allegations either admitted or not contested by the alleged violator(s), (D) all defenses and mitigating factors raised by the alleged violator(s), and (E) any rebuttal evidence raised by the staff to matters raised in the alleged violator's assertion of any defense or mitigating factor with references to supporting documents;

(3) a summary and analysis of all unresolved issues;

(4) the proposed text of any restoration order that the executive director recommends that the commission issue.

Authority cited: Section 30333, Public Resources Code

Reference: Section 30811, Public Resources Code

§ 13194. Distribution of Executive Director's Recommendation.

The executive director's recommendation on a proposed restoration order shall be distributed to the alleged violator(s) and otherwise to the persons and in the manner provided in section 13059 of these regulations for application summaries.

Authority cited: Section 30333, Public Resources Code

Reference: Section 30811, Public Resources Code

§ 13195. Procedure for Hearing on Proposed Restoration Order.

A hearing on a proposed restoration order shall proceed in the manner and in accordance with the rules of evidence specified in sections 13185 and 13186 of these regulations.

Authority cited: Section 30333, Public Resources Code

Reference: Section 30811, Public Resources Code

§ 13196. Contents and Reporting of Restoration Orders.

Restoration orders shall be signed by the executive director and shall contain at a minimum the following:

- (a) the names of the person or persons who have undertaken the activity that is the subject of the order;

- (b) identification of the property where the activity has been undertaken;

(c) a description of the activity:

(d) the effective date of the order:

(e) any terms, conditions, or other provisions authorized by section 30811 of the Public Resources Code. Any term or condition that the commission may impose which requires removal of any development or material shall be for the purpose of restoring the property affected by the violation to the condition it was in before the violation occurred:

(f) written findings that (A) explain the decision to issue the order and (B) provide the factual and legal basis for the issuance of the order:

(g) a statement of the obligation of the person(s) subject to the order to conform strictly to its terms and the consequences specified in section 30821.6 of the Public Resources Code of the failure to do so.

Authority cited: Section 30333, Public Resources Code

Reference: Section 30811, Public Resources Code

§ 13197. Rescission or Modification of Restoration Orders.

The commission, after public hearing, may rescind or modify a restoration order that it has issued. A proceeding for such a purpose may be commenced by (a) any person to whom the restoration order is directed, (b) the executive director or (c) any two members of the commission. A person described in subsection (a) may commence a proceeding for the purpose of rescinding or modifying a restoration order only on the ground that there has been a material change in the facts upon which the order was issued. Upon receipt of a request pursuant to this section for rescission or modification of a restoration order, a hearing on the request shall be held at the next regularly scheduled meeting or as soon thereafter as is practicable after notice to all persons subject to the order or whom the executive director otherwise has reason to know would be interested in the matter.

Authority cited: Section 30333, Public Resources Code

Reference: Section 30811, Public Resources Code

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
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**NOTICE OF INTENTION TO ADOPT REGULATIONS TO ESTABLISH
PROCEDURES FOR ISSUANCE OF RESTORATION ORDERS**

NOTICE IS HEREBY GIVEN that the **CALIFORNIA COASTAL COMMISSION** intends to adopt new regulations to establish procedures for the issuance by the Commission of restoration orders pursuant to section 30811 of the Public Resources Code.

A written comment period has been established commencing on July 4, 1997 and terminating on August 18, 1997. A public hearing is scheduled as part of the Commission's regular meeting on Thursday, September 11, 1997, at the Eureka Inn in Eureka, CA. The meeting will commence at 9:00 AM, however, the hearing on this matter may not be the first agenda item to be heard. Interested persons may comment orally about the proposed changes at the hearing or may submit written comments concerning the proposed code amendments to the **CALIFORNIA COASTAL COMMISSION, LEGAL DIVISION, 45 FREMONT ST., STE. 2000, SAN FRANCISCO, CA 94105-2219** before 4 p.m. on the day before the hearing. Written comments may also be submitted to the Commission on the day of the hearing at the meeting prior to the Commission's consideration of the matter. It is requested, but not required, that written comments be mailed so that they are received no later than three (3) working days prior to the date of the public hearing. It is requested, but not required, that persons who submit written comments to the Commission at the hearing provide twenty (20) copies of such comments. This will ensure that each commissioner will receive a copy.

AUTHORITY AND REFERENCE

The Commission is authorized to adopt and amend regulations pursuant to Public Resources Code § 30333. The proposed amendments would further implement, interpret, and make specific Public Resources Code § 30811.

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| EXHIBIT NO. | 3 |
| APPLICATION NO. | Notice of Intention to Adopt Subch. 9 of Tit. 14 Ch. 5, of Coastal Commission's Regulations |
| California Coastal Commission | |

INFORMATIVE DIGEST

Section 30811 of the Public Resources Code authorizes the California Coastal Commission to order restoration of a site on which development inconsistent with the Coastal Act has occurred without a required coastal development permit if the development is causing continuing resource damage.

In order to implement the authority granted by PRC § 30811, the Commission is proposing to commence a rulemaking process for the adoption of sections 13190 - 13197 to constitute a new Subchapter 9 of Chapter 5, Division 5.5, Title 14 of the California Code of Regulations. Section 13190 defines the term "continuing resource damage" as it is used in section 30811. In common with the Commission's cease and desist order procedures in subchapter 8 of chapter 5 of its regulations, section 13191 provides before a restoration order proceeding is commenced before the Commission for the submittal of a "statement of defense form" in which the alleged violator may respond to the allegations of the staff's violation investigation. Sections 13192 - 13195 provide procedures for the public hearing that PRC § 30811 requires to be held before the Commission may issue a restoration order. Section 13196 specifies the contents of a restoration order. Section 13197 provides for rescission or modification of restoration orders.

COST TO GOVERNMENTAL AGENCIES AND SCHOOL DISTRICTS

The proposed regulations 1) will not impose a mandate on local agencies or school districts, 2) will not impose a cost on or result in a savings to any State agency, 3) will not impose a cost on local agencies or school districts that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of the Government Code, 4) will not result in any other non-discretionary cost or savings to local agencies, and 5) will not result in any cost or savings in federal funding to the state.

EFFECT ON INDIVIDUALS, SMALL AND OTHER BUSINESSES, AND HOUSING COSTS

The regulations that the Commission is proposing herein to adopt will have no significant effect on housing costs or on private persons or businesses directly affected. Amendment of the regulations will not have a significant adverse economic impact on small or other businesses, including the ability of California businesses to compete with businesses in other states. The proposed amendments do not impose any new or expanded, generally applicable reporting, record keeping, permit or other requirements on individuals or businesses. The sole purpose and effect of the proposed regulations are to establish procedures for an administrative proceeding mandated by the legislature in PRC § 30811, which will be held only in situations in which the Commission's executive director has determined that an individual or business has in violation of the permit

requirements of the Coastal Act engaged in development activity that is causing continuing resource damage.

ASSESSMENT STATEMENT

This proposed regulatory action will neither create nor eliminate jobs within California, create new businesses or eliminate existing businesses, or affect the expansion of businesses, currently doing business within California.

ALTERNATIVES

The **CALIFORNIA COASTAL COMMISSION** must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT

The **CALIFORNIA COASTAL COMMISSION** has prepared a written explanation of the reasons for the proposed regulations and has available all of the information upon which its proposal is based. Copies of the proposed amendments and all of the information upon which it is based may be obtained from the **CALIFORNIA COASTAL COMMISSION, LEGAL DIVISION, 45 FREMONT ST., STE. 2000, SAN FRANCISCO, CA 94105-2219**. Any inquiries concerning the proposed amendments should be directed to **John Bowers** at (415) 904-5229.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the comment period, the **CALIFORNIA COASTAL COMMISSION** may adopt the proposed regulations substantially as described in this notice. If modifications are made which substantially change the originally proposed text, the modified text with changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the **CALIFORNIA COASTAL COMMISSION** adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of **John Bowers** at the address indicated above. The **CALIFORNIA COASTAL COMMISSION** will accept written comments on any modified regulations for 15 days after the date on which any modified regulations are made available.

If the proposed regulations are not significantly modified, the **CALIFORNIA COASTAL COMMISSION** may adopt the proposed amendments to regulations substantially as described above.

CALIFORNIA COASTAL COMMISSION

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**INITIAL STATEMENT OF REASONS FOR PROPOSED REGULATIONS
 TO ESTABLISH PROCEDURES FOR ISSUANCE OF RESTORATION ORDERS**

**(Prepared for comment period commencing
 July 4, 1997, and ending August 18, 1997.)**

The California Coastal Commission is proposing to implement the authority granted by section 30811 of the Public Resources Code by adopting the attached sections 13190 - 13197 to be added as a new Subchapter 9 to Chapter 5 of Division 5.5 of Title 14 of the California Code of Regulations.

Section 30811 of the Public Resources Code provides that the Commission may order restoration of a site on which development inconsistent with the Coastal Act has occurred without a required coastal development permit if "the development is causing continuing resource damage." Section 30811 does not define the term "continuing resource damage." Thus, the Commission is proposing to adopt section 13190 of the proposed regulations for the purpose of defining each of the elements of this term.

Section 30811 of the Public Resources Code provides that the Commission may issue a restoration order "after a public hearing." The Commission proposes to adopt as regulations the attached sections 13191 - 13195 for the purpose of providing procedures to govern the public hearings required by section 30811.

Section 13191 of the proposed regulations provides that the Executive Director of the Commission may commence a restoration order proceeding before the Commission by providing notice of his intent to do so to any person whom he believes to have engaged in activity as described in section 30811 of the Coastal Act. The proposed regulation 1) describes the information that such a notice is required to include, 2) provides that such a notice is to be served either by certified mail, by regular mail receipt of which is confirmed by subsequent oral communication, or by hand, and 3) requires inclusion with the notice of a "Statement of Defense Form" in the form attached as Appendix A to the Commission's cease and desist order regulations (Subchapter 8 of Chapter 5). The purpose of this "Statement of Defense Form" is to give the alleged violator(s) an opportunity to respond to the allegations of the staff's violation investigation. A secondary purpose of this "Statement" is to generate information that will help ensure that any action the Commission decides to take under section 30811 is based on a correct understanding of all attendant facts and circumstances. The time that

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| EXHIBIT NO. | 4 |
| APPLICATION NO. | Initial Statement of |
| | Reasons for Proposed |
| | Subch. 9, of Tit. 14 Ch.5 |
| | of Coastal Comm's Regs. |
| California Coastal Commission | |

an alleged violator is given for completing and returning the "Statement" must be at least 20 days. Section 13191(b) of the proposed regulations authorizes the executive director of the Commission to grant an extension of this 20-day submittal deadline as to all or any portion of the information required by the Statement upon a showing of good cause therefor.

Section 13192 of the proposed regulations provides for notice of the hearing on a proposed Commission restoration order to be given to the alleged violator(s) and to other members of the public who have submitted a written request for such notice in the same manner (regular mail) and within the same timeframe (at least 10 days prior to hearing) as is given generally for Commission hearings. (14 CCR section 13015.)

Section 13193 of the proposed regulations requires the Executive Director of the Commission to prepare a written recommendation to the Commission on whether the Commission should issue a restoration order and specifies the minimum contents of such a recommendation. This requirement for a staff recommendation is consistent with the procedures that the Commission follows in its regular permit proceedings. (14 CCR section 13090.)

Section 13194 of the proposed regulations provides for the Executive Director's recommendation to be distributed to the same persons and agencies and in the same manner as section 13059 of the Commission's regulations provides for distribution of a permit application summary.

Section 13195 of the proposed regulations promulgates procedures for a hearing on a proposed Commission restoration order that substantially conform to those the Commission employs for its cease and desist order hearings. (14 CCR §§ 13185, 13186.) These procedures are, in turn, modeled after the procedures the Commission employs for its permit hearings. (14 CCR §§ 13066, 13067.) There are, however, two departures in the Commission's cease and desist order procedures, and thus in the proposed restoration order procedures, from the procedures the Commission follows in its permit hearings. First, sections 13185(a) and (g) authorize any speaker at a hearing on a proposed cease order to propose to the Commission any question(s) for any Commissioner, in his or her discretion, to pose to any other speaker. The purpose of these provisions is to provide an alternative means for the elicitation of factual information that any speaker may feel cannot be adequately presented through his or her direct testimony or that of other speakers. Second, section 13185(d) provides that the Commission, in its discretion, may either trail or continue a hearing to allow adequate staff consideration of new information which could have been but was not included in a "Statement of Defense Form." The purpose of this provision is to provide an incentive to an alleged violator to provide full disclosure of all relevant information in his or her "Statement of Defense."

Section 13196 of the proposed regulations specifies the information that a restoration order must contain. Proposed section 13196(e) provides clarification that a condition to a Commission restoration order that requires removal of any development or material shall be for the purpose of restoring the property affected by the violation to the condition it was in before the violation occurred.

Proposed section 13197 provides to the Commission authority to rescind or modify any restoration order that it may have issued. This authority is necessary to give the Commission the ability to respond to changing circumstances including full or partial compliance with an order. Section 13197 also requires the Commission to conduct a second public hearing before taking any such action, and specifies who may commence such a proceeding. Any person against whom a restoration order has been issued may commence a proceeding to rescind or modify that order only on the ground that there has been a material change in the facts on the basis of which the Commission originally issued the order. This purpose of this latter requirement is to prevent commencement of rescission or modification proceedings for the purpose of causing the Commission to reconsider arguments that either were or could have been presented at the original restoration order proceeding.

DOCUMENTS RELIED UPON

There is no study, report, or similar document on which the Commission has relied in proposing the regulations described herein.

CONSIDERATION OF ALTERNATIVES

The Commission has not considered any alternatives to the proposed amendments. Thus, no other alternative considered by the Commission would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons or small businesses than the proposed regulation. Interested persons are invited during the written comment period or at the hearing to present information, statements or arguments with respect to alternatives to the proposed amendments.

USE OF SPECIFIC TECHNOLOGIES

The proposed regulations do not mandate the use of specific technologies or equipment.

IMPACT ON BUSINESS

The proposed amendments will not have a significant adverse economic impact on business, including the ability of California businesses to compete with businesses in other states. The amendments do not impose any new or expanded, generally applicable reporting, record keeping, permit, or other requirements on any businesses. The sole purpose and effect of the regulations are to establish procedures for an administrative proceeding mandated by the legislature in PRC § 30811, which will be held only in situations in which the Commission's executive director has determined that an individual or business has in violation of the permit requirements of the Coastal Act engaged in development activity that is causing continuing resource damage.

COMPARABLE FEDERAL REGULATIONS OR STATUTES

There are no existing comparable federal regulations or statutes.