more than 6 months from the date of the receipt of such consistency certification and required information from the[ ] Area Supervisor (see Section 13660.3 of these regulations). If a Commission decision has not been reached within 3 months of such receipt, the Executive Director shall notify in writing the Assistant Administrator, the applicant, the[ ] Area Supervisor, and the relevant Federal agencies of the status of review and the basis for further delay.

(b) A Commission decision which objects to an applicant's consistency certification for one or more of the activities described in detail in the OCS plan shall be accompanied by a statement indicating:

(1) the effect which the activity will have on coastal land ~~and~~ or water uses in the coastal zone.

(2) how the activity is inconsistent with a mandatory provision of the CCMP,

(3) alternative measures or conditions (if they exist) which would make the proposed activity consistent with CCMP policies,

(4) if a decision to object is based upon grounds that the applicant has*~~not provided~~*failed to provide information *~~required in Section 13660.3 above, which has been~~*requested by the Executive Director, the type*~~nature~~*of*~~the~~* information requested and the necessity of that information for a consistency certification *~~determination~~*must be described, and

(5) the applicant's right of appeal to the Secretary of Commerce on the grounds that the activity is consistent with the objectives or purposes of the Coastal Zone Management Act or is necessary in the interest of national security.

(c) The Commission shall notify the applicant, the Area

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Supervisor, the Assistant Administrator, and the relevant Federal agencies of its decision by sending a copy of its Final Decision to them.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008 Public Resources Code. Federal law: 16 USC Section ~~1451 et seq.~~ 1456(c), 15 CFR 930.79 and 15 CFR 930.64, 930.63.

13660.9. Appeals Procedure. Any applicant may file a notice of appeal of a Commission objection to a consistency certification within 30 days of receipt to the Secretary of Commerce according to the provisions of the Coastal Zone Management Act (16 USC Sec. 1451 et. seq.) and the regulations contained in 15 CFR Par 930.120 et seq. ~~Any applicant who appeals to the Secretary of Commerce a Commission objection to a consistency determination.~~ The applicant shall send a copy of the notice of appeal and accompanying documents to the Executive Director. ~~of the Commission.~~ The Executive Director shall submit detailed comments to the Secretary of Commerce within 30 days of receipt of the appeal and transmit ~~send~~ copies ~~of such comments~~ to the applicant, the Area Supervisor, and the relevant Federal agencies. Where the Commission meeting schedule allows sufficient time for discussion prior to the 30 day period, these comments shall be the subject of Commission discussion with opportunity for public comment. This procedure shall also be followed if the Secretary of Commerce pursues an independent review of the consistency of an OCS activity.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008 Public Resources Code. Federal law: 16 USC Section ~~1451 et seq.~~ 1456(c), 15 CFR 930.120-134.

13660.10. Required Amendments. Any amendment to an OCS plan which must be submitted as a result of Commission objection to consistency of an OCS activity shall be processed as if such amendment were a new plan; i.e., Sections 13660.1-.13 of these regulations apply, except that the Commission

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must make its decisic within 3 months of receipt.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008 Public resources Code. Federal law: 16 USC Section ~~1451 et seq.~~ 1456(c), 15 CFR Parts 930.83, 930.84, 930.85, 930.86.

13660.11. Multiple Permit Review. (a) Applicants are strongly encouraged to include with OCS plans ~~with consistency certifications required to be submitted to the Commission in accordance with Section 13660.3 of these regulations~~, detailed descriptions, consistency certifications ~~determinations~~, findings and assessments and other supporting data for other OCS-related activities, which require a federal license or permit but are not required to be described in detail in OCS plans by the Secretary of the Interior (e.g., Corps of Engineer permits for the placement of structures on the OCS and for dredging and the transportation of dredged material, Environmental Protection Agency air and water quality permits for offshore operations and onshore support and processing facilities, or the other permits listed in Section 13660.1 of these regulations). Where consistency certifications ~~determinations~~ and related findings and assessments are made for activities for all required Federal permits connected with an OCS plan, the applicant shall so state and consolidated consistency review for these activities will take place at the same time and under the same procedures as review of activities required to be described in detail in OCS plans (Sections 13660.1-.13 of these Regulations).

(b) If consistency certifications ~~determinations~~ and related assessments and findings for all OCS related Federal permit activities are not included with an OCS plan and consistency certification ~~determination~~, the applicant shall state which Federal permit activities have not been included. ~~The Commission will review those permit activities which are not~~

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~~included separately~~. The final decision of the Commission ~~for consistency determinations of OCS plan activities~~ shall state which Federal permit activities have not been included and ~~which~~ therefore must be reviewed separately.

(c) The applicant and the Coastal Commission shall comply with Sections 13660-13660.13 of these regulations in processing consistency certifications~~determinations~~ which have not been included with OCS plans, except that:

(1) As soon as possible, but at least 10 days ~~pior~~ prior to submission of an application for a Federal permit, the applicant shall consult with the Executive Director concerning OCS-related Federal license or permit activities.

(2) An environmental report as described by 30 CFR 250.34-3(a) and 3(b) need not be submitted, if one which covered the subject permit activity was previously submitted under Section 13660.3 of these regulations, or if the Executive Director is satisfied that the applicant has provided sufficient information concerning the environmental effects of the permit activity to adequately review the project as if it were a coastal permit under the CCMP.

(3) Wherever there is a requirement to notify the Area Supervisor, notification shall also be sent to the appropriate ~~chief of the~~ Federal permitting agency.

NOTE: Authority cited: State law: Section 30333, Public resources Code. Reference: Section 30008 Public Resources Code. Federal law: 16 USC Section ~~1451 et seq.~~ 1456 (c), 15 CFR 930.82.

13660.12. Associated Coastal Development Permits. Where a facility associated with an OCS plan ~~precedes requires~~ requires a coastal development permit application under the California Coastal Act (e.g. pipeline, marine terminal, onshore

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support and processing facilities, etc.), the applicant shall notify the Executive Director of the facility's relationship to the OCS plan at the time of submittal of the plan. Where ~~an~~ a coastal permit application for such a facility precedes submittal of the OCS plan to the Commission, the applicant shall notify the Executive Director that the facility is associated with a forthcoming OCS plan. If the Executive Director determines that a consolidated review of the applicant's consistency certification*~~determination~~*and application for a coastal development permit is necessary for complete and proper consideration of the matter, he shall recommend such*~~direct~~*consideration in whatever manner necessary to comply with applicable time limitations. ~~of such permit application by the State Coastal Commission pursuant to §30333.5 of the Coastal Act.~~*

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008 Public Resources Code. Federal law: 16 USC Section ~~1451 et seq.~~ 1456(c), 15 CFR 930.82

13660.13. Monitoring of Federal Permits. Copies of Federal license and permit applications for activities described in detail in an OCS plan, as well as for OCS-related activities, which have received Commission concurrence and which have been requested in the final Commission decision, shall be sent by the applicant to the Executive Director to allow the Commission to monitor the activities.

NOTE: Authority Cited: State Law: Section 30333, Public Resources Code, Reference; Section 30008, Public Resources Code. Federal law: 16 USC Section ~~1451 et seq.~~ 1456(c), 15 CFR 930.86.

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Adopt Chapter 11 as follows:

MAL-MAJ-1-08

CHAPTER 11: ENERGY FACILITIES AND LCP "OVERRIDE" PROCEDU

SUBCHAPTER 1. (RESERVED)

SUBCHAPTER 2. CERTIFIED LOCAL COASTAL PROGRAM (LCP) AMENDMENT "OVERRIDE PR

13666. Applicability

These procedures are applicable to persons authorized to undertake a public works project or proposing energy facility development that requires LCP amendments provided that the development meets the following two requirements:

(1) un nticipated by the person proposing the development at the time the L ~~the Local Coastal Program~~ was before the Commission for certification.

(2) meets the public needs of an area greater than that included in the certified ~~Local Coastal Program.~~ LCP.

All other developments requiring an amendment to the certified ~~Local Coastal Program~~ LCP shall follow the LCP ~~Coastal Program~~ amendment procedures of the affected local government and the Commission.

NOTE: Authority Cited: Section ~~30515~~ 30333, Public Resources Code. Reference: 30515, PRC.

13666.1. Information Requirements for Preliminary Determination of Applicability

A person desiring review according to this subchapter may first submit an LCP amendment application (following the requirements of the affected local government) to the Executive Director with sufficient information setting forth the reasons for the amendment with particular emphasis on the applicability requirements as specified in Section 13666, and how it conforms with the policies of ~~Chapter 3.~~ Public Resources Code Section 30200 et. seq. The Executive Director shall, within 30 days, review the Local Coastal Program file and the projected scope of this subchapter. A determination of the Executive Director is final and shall be forwarded to the affected local government and the person desiring review.

NOTE: Authority Cited: Section 30333, Public Resources Code. Reference: 30515, PRC.

13666.2. Submittal to Local Government

(a) If the Executive Director has preliminarily determined that the development is subject to this subchapter, the application shall first be submitted to the affected local government for an LCP ~~Coastal Program~~ amendment according to applicable requirements. The local government shall make its determination based on factual findings and reasoning supporting the conclusions of law set forth in this subchapter. If the local government fails to amend the LCP ~~Coastal Program~~ within 90 days of submittal, the person submitting such an amendment may file a request for an amendment with the Commission.

(b) If the applicant has not requested a preliminary determination, or if the Executive Director has determined that the override provisions do not apply, the applicant may nevertheless request the Commission to consider the application through an appeal from a final local government decision. The appeal from the local government's decision shall follow local coastal program regulations and additionally include the information requirements of this subchapter in order to advise the Commission that in the applicant's opinion, the development is subject to Section 30515.

NOTE: Authority Cited: Section ~~30515~~ 30333, Public Resources Code. Reference: Section 30515, Public Resources Code.

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13666.3 Commission Review

Commission review shall be undertaken only after consultation with the affected local government and review shall be conducted according to the LCP. ~~Coastal Program~~ regulations. A local government resolution is not required if the local government fails to act within 90 days as specified in 13666.2(a).

NOTE: Authority Cited: Section ~~30515~~ 30333, Public Resources Code. Reference: 30515, PRC.

13666.4 Required Findings

(a) If the recommendation is for Commission approval as proposed or modified (i.e., conditioned), the recommendation shall be accompanied by specific factual findings and reasoning which, after a careful balancing of social, economic, and environmental effects, supports the following conclusions:

(1) development meets a public need of a geographic area greater than that included within the certified ~~local~~ LCP ~~Coastal Program.~~

(2) development conforms with and is adequate to carry out the policies of ~~Chapter 3.~~ Public Resources Code Section 30200 et. seq.

(3) if significant adverse environmental impacts have been identified, reasonable alternatives have been examined, and mitigation measures have been included that substantially lessen any significant adverse environmental impact so that there is no feasible less environmentally damaging way to meet the public need. If the development will have no significant adverse environmental impact, findings shall be included which support that conclusion.

(4) disapproval would adversely affect the public welfare as identified in the findings, declarations, and general provisions of the Coastal Act (Resources Code n 30000 et.seq.) and the California Coastal Management Program, if applicable.

(b) If the recommendation is for Commission denial, the recommendation shall state specifically the grounds for denial, based upon the findings and relevant facts which after a careful balancing of social economic and environmental effects support the conclusions listed in Section 13666.4.

NOTE: Authority Cited: Section ~~30515~~ 30333, Public Resources Code. Reference: Section 30515, Public Resources Code.

CHAPTER 1
GENERAL PROVISIONS

13012. Major Public Works and Energy Facilities: "Major public works" and "Major energy facilities" ~~means any public works~~ mean facilities ~~*located within an area listed in Public Resources Code, Section 30601(1) and (2),*~~ that ~~costs~~ cost more than ~~fifty~~ one hundred thousand dollars ~~($50,000)~~ ($100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Public Resources Code Sections 30610, 30610.5, 30611, or 30624.

NOTE: Authority Cited: Section ~~30601~~ 30332, Public Resources Code. Reference: Section 30601, Public Resources Code.

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MAL-MAJ-1-08

CALIFORNIA COASTAL COMMISSION
631 Howard Street, San Francisco 94105 — (415) 543-8555

February 16, 1982

RECEIVED
FEB 26 1982
CALIFORNIA
COASTAL COMMISSION

published 2/24/82

NOTICE

Proposed Changes in the Regulations of the California Coastal Commission dealing with Review of OCS Plans, and Adoption of Local Coastal Program Procedures for Energy Facilities and Public Works Projects and Deletion of erroneous references in the Definition of Major Public Works.

NOTICE: The California Coastal Commission proposes to adopt amendments to its regulations which explain and implement the requirements of the California Coastal Act of 1976, as amended, Public Resources Code Section 30000 and following.

INFORMATIVE SUMMARY

1. The proposed amendments to OCS Plan regulations found in 14 California Administrative Code Section 13660 are administrative or procedural, deleting references to the Regional Commissions and reflecting other organizational changes. A new section is proposed allowing consent calendar procedures for these projects. This procedure should expedite review. The term "California Coastal Management Program" is defined. The regulations implement Section 30330 which designates the Commission as the state coastal management agency for the federal Coastal Zone Management Act 16 U.S.C. Section 1451 and 15 CFR Part 930.

2. Section 30515 allows applicants of public works or energy facility developments to petition the Commission for Local Coastal Program amendments, subject to certain threshold requirements. For all other types of developments, local governments must first approve such developments. The regulations describe how such applications will be processed, relying as much as possible on existing procedures. The regulations also implement Section 30330 and the Commission's national interest responsibilities pursuant to the Coastal Zone Management Act 16 USC 1451 and 15 CRF Part 923.

3. The present regulation defining "major public works", Section 13012, incorrectly limits such projects to geographic areas described in P.R.C. Section 30601(1) and (2). This is expressly inconsistent with Section 30601 (3) which does not put a locational limit on such projects. It is proposed to delete the reference to Section 30601 (1) and (2). Correction of this error will assure that both public works projects and energy projects, regardless of location, may take advantage of the Local Coastal Program amendment procedures of paragraph 2 above.

HEARING:

The Coastal Commission will conduct one hearing on these proposed amendments. The hearing will be held as follows:

March 16-19, 1982
Amfac Hotel, near L.A. Airport
Los Angeles, California

RECEIVED FOR FILING FEB 18 1982
PUBLICATION DATE FEB 17 1982
Office of Administrative Law

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The specific date of the hearings will be available ten days prior to the scheduled meeting and will be noticed on the Commission Meeting Notice. Any person interested may present statements or arguments relevant to the proposed amendments and adoption, orally or in writing, at the hearings. If for some reason the public hearing is not held, any interested person may request a public hearing no later than 15 days before the close of the comment period. Written comments may be submitted until April 10.

ADDITIONAL INFORMATION:

The Coastal Commission has prepared a Statement of Reasons providing an explanation of the purpose and justification for these proposed amendments and adoption. These amendments are expected to result in no increased costs to local governments, and there may be a slight decrease in costs as a result of the removal of one level of review and decreased time for review by the California Coastal Commission.

AUTHORITY:

Authority for the Coastal Commission to adopt these amendments and new regulations is provided in Public Resources Code Sections 30333, 30501. These amendments and new regulations would implement the requirements of Public Resources Code, Sections 30515, 30333, and the federal laws and regulations noted above.

CONTACT:

Any inquiries concerning these proposed amendments may be directed to Linda Breeden, Energy Counsel at (415) 543-8555.

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Statement of Reasons

Chapter 10

Federal Consistency

Purpose

A statement of reasons and statement of review completion was previously submitted to OAL. Due to 1981 amendments to OAL's authorizing legislation, this agency is submitting new statements of reasons and review completion. However, material from the prior submissions will not be repeated and are incorporated herein by this reference. Chapter 10 implements the federal Coastal Zone Management Act, 16 USC 1451 et seq. The Coastal Commission is the federally designated coastal management agency responsible for implementation of California's coastal management program (CCMP). Under federal law, the Commission reviews federal activities and federally licensed activities for "consistency" with the CCMP. One type of activity it reviews are OCS plans of exploration and development, 16 USC Sec. 1456(c)(3)(B). Regulations describe procedures for reviewing plans in accordance with federal law, federal regulations codified in 15 CFR Part 930, and the CCMP. Since the Commission's consistency authority is analogous, but not identical, to its permit authority, separate procedural regulations are necessary. The amendments proposed herein are minor in nature, seeking to conform to new OAL requirements for citations, and to federal regulations on consistency. The Commission derives its authority over these projects from federal, not state, law.

Title

The title of the Chapter was revised to more closely correspond to the language of the federal law. Under federal law and regulations, federal agencies make "consistency determinations", whereas applicants for federal licenses or permits make "consistency certifications". Since this Chapter refers to applicants, the term "determination" was corrected to now become "certification". This change was made to every section where the word "determination" occurred.

13660. Definitions

In subsection (a), the last phrase is proposed to be deleted because it is redundant. A new subsection (f) will be added which defines "California Coastal Management Program". The term is used throughout the Chapter and is confusing without a definition. Citations to federal law and regulations have been added to all sections to comply with OAL requirements.

13660.1 Preliminary Consultation

Redundant phrases have been deleted. The regulation will be clarified to indicate that consultation should take place at the state office. The state office is responsible for the OCS program in the reorganization of the Commission.

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13660.3 Submission of Consistency Certification

Clarifying, editorial changes are proposed.

13660.4 Staff Summary, Recommendation and Hearing Notice

Changes to reflect amendments to the Coastal Act (e.g., 49 days for a public hearing) are proposed. Also, reorganization of the Commission necessitates other minor revisions.

13660.7 Regional Commission Role

This section will be repealed since regional Commissions no longer exist. A new "Consent Calendar Procedure" section will be added to assure OCS applicants of speedy Commission action.

13660.8 Final Commission Decision

Based on comments received last year, Section (b)(1) will be changed to quote exactly the federal law. Apparently, some commentators objected to the paraphrased version of the federal law. The Commission is aware of OAL's objection to regulations which quote laws and is therefore somewhat caught in the middle. However, due to the relative unavailability of federal legislation to applicants and staff, it is necessary to state the basis for decision making. A few editorial changes are also proposed.

13660.9 Appeals Procedure

Clarification of the first sentence is proposed to include more information about federal regulations. Commission actions under Chapter 10 are appealable to the Department of Commerce.

13660.11 Multiple Permit Review

To comply with OAL mandates, deletion of repetitive phrases are proposed. No substantive changes are proposed.

13660.12 Associated Coastal Development Permits

This section currently deals with the relationship of a state Commission consistency certification to an associated permit under consideration by a regional Commission. Since the regional Commissions no longer exist, and the Commission handles all permits, revisions to the regulation are needed.

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STATEMENT OF REASONS

CHAPTER 11

Energy Facilities

Subchapter 2. Certified Local Coastal Program "Override" Procedures

Introduction:

Section 30515 provides special procedures allowing applicants to petition the Commission for Local Coastal Program amendments. The section only applies to public works facilities and energy facilities. For all other types of facilities, local government submits Local Coastal Program amendments to the Commission. The section is also extremely important as an implementation mechanism for the Commission's national interest responsibilities pursuant to the Coastal Zone Management Act (CZMA), 16 USC Section 1451 et seq. and the approved California Coastal Management Program (CCMP).

13666 Applicability

This section indicates that the so-called "override" procedures of Section 30515 are applicable to energy facilities and public works facilities. The entire Chapter also implements the national interest in energy facility planning and siting necessary to carry out the Commission's approved Coastal Management Program ("CCMP") pursuant to the Coastal Zone Management Act of 1972 ("CZMA" 16 USC 1451). There are frequent references in the federal approval of the CCMP to the importance of implementation of Section 30515. ~~The Commission relies on the CCMP, CZMA, and Coastal Act~~ in proposing this regulation. A copy of these documents has previously been sent to O'L and is available upon request. The section describes the two eligibility requirements for State Coastal Commission "override" of local decisionmaking. It also specifically provides that developments that are not subject to the "override" procedures shall follow Local Coastal Program amendment procedures.

13666.1 Information Requirements for Preliminary Determination

This section describes the type of information that may be submitted to the Executive Director to determine if the proposed development is subject to this subchapter. This application may be submitted prior to local government review, if the applicant, at his option, desires local government to be informed at the outset that the application is subject to "override" provisions. It is anticipated that applicants would chose to exercise this option, if they anticipate local opposition to the development.

13666.2 Submittal to Local Government

Subsection (a) describes the procedures for submittal of an amendment application if the applicant has requested a preliminary determination. The application is to be submitted first to the local government whose decision is subject to the factual findings of this subchapter. If the local government fails to amend the Local Coastal Program within 90 days, the applicant may file an amendment request with the Commission. Ninety days is an appropriate time period because local governments submit local coastal program amendments three times a year. This time period is intended to allow the applications to be considered along with local governments' existing local procedures.

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Subsection (b) describes the procedures for review of amendment applications, if the applicant has not elected to request a preliminary determination. Generally speaking, this section would apply if the amendment were first denied by local government and then appealed to the Commission. It could also apply to appeals of amendment approvals, if the applicant were dissatisfied with the conditions of approval. In either event, the subsection only applies to appeals.

13666.3 Commission Review

This section assures commission consultation with the affected local government as required by Section 30515 and indicates the applicable provisions of the Chapter 5 regulations and Local Coastal Program regulations. Citation to the existing regulations avoids duplication of procedural and substantive regulations.

13666.4 Required Findings

The required findings assure that the Commission decision will be supported by an analysis of factual matters to support the legal conclusions specified in Section 30515.

CHAPTER 1

General Provisions

13012. Major Public Works

This section defines major public works but includes an erroneous reference to P.R.C. Section 30601(1) and (2) that is proposed to be deleted.

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Title

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STATEMENT OF REASONS

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13666.1 Information Requirements for Preliminary Determination

This section describes the type of information that may be submitted to the Executive Director to determine if the proposed development is subject to this subchapter. This application may be submitted prior to local government review, if the applicant, at his option, desires local government to be informed at the outset that the application is subject to "override" provisions. It is anticipated that applicants would chose to exercise this option, if they anticipate local opposition to the development.

13666.2 Submittal to Local Government

Subsection (a) describes the procedures for submittal of an amendment application if the applicant has requested a preliminary determination. The application is to be submitted first to the local government whose decision is subject to the factual findings of this subchapter. If the local government fails to amend the Local Coastal Program within 90 days, the applicant may file an amendment request with the Commission. Ninety days is an appropriate time period because local governments submit local coastal program amendments three times a year. This time period is intended to allow the applications to be considered along with local governments' existing local procedures.

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13666.3 Commission Review

This section assures commission consultation with the affected local government as required by Section 30515 and indicates the applicable provisions of the Chapter 5 regulations and Local Coastal Program regulations. Citation to the existing regulations avoids duplication of procedural and substantive regulations.

13666.4 Required Findings

The required findings assure that the Commission decision will be supported by an analysis of factual matters to support the legal conclusions specified in Section 30515.

CHAPTER 1

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GAL-4 (Interim)

MAL-MAJ-1-08

FACE SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
IN THE OFFICE OF ADMINISTRATIVE LAW
AND WITH THE SECRETARY OF STATE
(Pursuant to Government Code Section 11343.1)

RECEIVED FOR FILING
JUN - 4 1982
Office of Administrative Law

ENDORSED
APPROVED FOR FILING
DEC - 7 1982
Office of Administrative Law

DO NOT WRITE IN THIS SPACE

Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

California Coastal Commission
(Agency)

(Billing Code)

Date of adoption, amendment, or repeal:
MAY 7, 1982

By: Roy Gorman
ROY GORMAN, CHIEF COUNSEL
(Title)

ENDORSED FILED
IN THE OFFICE OF
DEC 7 4 45 PM 1982
MARCH FONG EU
SECRETARY OF STATE
OF CALIFORNIA

DO NOT WRITE IN THIS SPACE

The attached regulations which are being adopted, amended or repealed are contained in Title 14 of the California Administrative Code.
Division, Part, Chapter, etc., affected by this order: DIVISION 5.5, CHAPTER 1, CHAPTER 10.

TYPE OF ORDER (Check as applicable)

- [ ] Emergency (Attach Finding of Emergency)
- [ ] Certificate of Compliance
- [ ] Certificate of Non-Compliance
- [x] Regular
- [ ] Procedural and Organizational

CHECKLIST OF MANDATORY REQUIREMENTS

- [x] One Certified Copy With Original Signature and Six Copies of Order or Certificate of Compliance Attached
- [x] Regulation Summary (Form 690) Attached (1 copy)
- [x] Publication Date (in Notice Register) of Notice for Attached Order or Certificate of Compliance is 2/17/82
- [x] Authority and Reference Citation Placed Beneath Each Section in Attached Order
- [x] Cost Statement Attached (Refer to SAM Section 6050)

Effective Date:

- [x] On _____ as Specified by Statute ____ _____, or
- [ ] On _____, if Later Than 30 Days After Filing With the Secretary of State (Emergency regulations will be effective upon filing with the Secretary of State; all other regulations will be effective 30 days after filing with the Secretary of State.)
- [x] Rule-Making File

BUILDING STANDARDS (Check one)

- [x] These regulations contain no building standards under Health and Safety Code Sections 18900-18915.
- [ ] These regulations do contain building standards under Health and Safety Code Sections 18900-18915. The attached copy contains Building Standards approval.

CONFLICT OF INTEREST (Check one if attached are Conflict of Interest Regulations)

The attached Conflict of Interest Regulations contain the FPPC approval stamp and:

- [ ] Are to be published in full in the Administrative Code.
- [ ] Are to be codified by appropriate reference in the Administrative Code, and include a statement as to where the full text may be obtained.

CAMPAIGN DISCLOSURES (Check if emergency Campaign Disclosure Regulations)

- [ ] These are emergency regulations pertaining to campaign disclosure law and were adopted by unanimous vote of all board or commission members present at the regulation adoption proceeding.

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Chapter 10. Federal Consistency ~~Determination~~
Subchapter 1. Commission Procedures for Consistency
Certifications ~~Determinations~~ for Outer Continental Shelf
(OCS) Exploration, Development or Production
Plans and for OCS Related Federal Permits.

13660. Definitions. (a) The term "applicant" means any individual, corporation, partnership, association, or other entity organized or existing under the laws of any State, the Federal government, any State, regional or local government, or any entity of such Federal, State, regional or local government, who submits to the ~~USGS~~ Area Supervisor (or other designee of the Secretary of Interior) after August 31, 1978, an OCS Plan ~~which describes in detail activities requiring a Federal license or permit.~~

(b) The term "OCS plan" means any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act, as Amended, (43 U.S.C. §1331 et. seq.), and the regulations under that Act, which describes in detail activities requiring a Federal license or permit.

(c) The term "Area Supervisor" means the Pacific Area Oil and Gas Supervisor, Minerals Management Service formerly the United States Geological Survey ~~United States Geological Survey~~, Department of the Interior.

(d) The term "Assistant Administrator" means the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, Department of Commerce.

(e) The term "Executive Director" means the Executive Director of the California Coastal Commission.

(f) The term "California Coastal Management Program" (CCMP) means the program approved by the Department of Commerce pursuant to the Coastal Zone Management Act (16 USC Section 1451 et.seq.).

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NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference cited: Section 30008 Public Resources Code. Federal law: 16 USC Section ~~1451 et. seq.~~ 1456 (c); 15 CFR Part 930 et. seq. as adopted June 25, 1979, 44 FR 37143.

13660.1. Preliminary Consultation. (a) As soon as possible, but at least 10 days prior to submission to the Area Supervisor, of any plan ~~required to be submitted under the Outer Continental Shelf Lands Act, as amended, (43 USC 1331 et seq.)~~ for the exploration of areas leased under the Outer Continental Shelf Lands ~~that~~ Act (43 USC 1331 et. seq.), and at least 30 days prior to submission of plans for the development or production of areas leased under that Act, any applicant wishing to undertake such activities in areas adjacent to California waters shall consult with the Executive Director at the state office concerning all the activities required to be described in detail in the OCS plan affecting the land or water uses in the coastal zone* ~~which affect land and water uses.~~*

This shall include, at minimum, activities requiring the following federal approvals:

MMS - Department of the Interior

- Approval of offshore drilling operations
- Approval of design plans for the installation of platforms
- Approval of gathering and flow lines

The following OCS related Federal license or permit activities are encouraged to be included, if they will be required in connection with the OCS activity.

Department of Defense - U.S. Army Corps of Engineers

- Permits and licenses required under Sections 9 and 10 of the Rivers Harbors Act of 1899
- Permits and licenses required under Section 103 of the Marine

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Protection, Research and Sanctuaries Act of 1972

- Permits and licenses required under Section 404 of the Federal Water Pollution Control Act of 1972 and amendments
- Permits for artificial islands and fixed structures located on the Outer Continental Shelf (Rivers and Harbors Act of 1899 as extended by 43 U.S.C. 1333 (f))

Department of the Interior - Bureau of Land Management - ~~USGS~~ MMS

- Permits and licenses required for drilling and mining on public lands (BLM)
- Permits for pipeline rights-of-way on the Outer Continental Shelf
- Permits and licenses for rights-of-way on public lands

Environmental Protection Agency

- Permits and licenses required under Sections 402 and 405 of the Federal Water Pollution Control Act of 1972 and amendments
- Permits and applications for reclassification of land areas under regulations for the prevention of significant deterioration (PSD) of air quality

Department of Transportation - U.S. Coast Guard

- Permits for construction of bridges under 33 USC 401, 491-507 and 525-534
- Permits for deepwater ports under the Deepwater Port Act (P.L.93-627)

Federal Energy Regulatory Commission

- Certifications required for interstate gas pipelines
- Permits or licenses for construction and operation of facilities needed to import, export or transship natural gas or electrical energy

Any other OCS related Federal license or permit activities which are not listed above are also encouraged to be included, if they will be required in connection with the OCS activity.

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(b) The Executive Director shall provide the applicant with a copy of the California Coastal Management Plan ("CCMP") upon request.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008 Public Resources Code. Federal law: 16 USC Section ~~1451 et seq.~~ 1456(c), 15 CFR 930.75, 930.82, 930.64, 930.77.

13660.2. [RESERVED]

13660.3. Submission of Consistency Certification. (a) The applicant shall submit to the ~~USGS~~ Area Supervisor who in turn shall submit to the Executive Director: the OCS plan with accompanying consistency certification and supporting information for all activities required to be described in detail in the plan and identified in Section 13660.1(a) of these regulations, and the environmental report as soon as it is ~~approved by~~ deemed submitted to the Area Supervisor pursuant to 30 CFR 250.34-1(b)(1) for exploration plans or 30 CFR 250.34-2(b)(1) for development and production plans.

(b) The consistency certification* ~~for all activities described in detail in the OCS plan as required by Section 13660.3(a) above~~ *shall be in the following form:

> The proposed activities described in detail in this plan comply with California's approved coastal management program and will be conducted in a manner consistent with such program.

(c) The applicant shall also include the following supporting information:

(1) a brief assessment relating the probable coastal zone effects of each of the enumerated activities and their associated facilities to the relevant elements of the program policies of the CCMP; and

(2) a brief set of findings derived from the assessment indicating that each of the enumerated activities (e.g. drilling, platform

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placement) and its associated facilities (e.g. onshore support structures, offshore pipelines), and its primary effects (e.g. air, water, waste discharges, erosion, wetlands, beach access impacts) are consistent with the mandatory provisions of the CCMP.

(d) Upon request of the applicant, the California Coastal Commission staff will provide assistance in preparing the assessment and findings required in Section 13660.3(c)(1) and (2) of these regulations.

(e) The Executive Director may request in writing additional data and information from the applicant if he deems it necessary for a complete and proper review. Such a request shall not extend the date for commencement of Coastal Commission review; however, failure to submit the requested information could result in an objection to the applicant's consistency certification ~~determination~~ [See §13660.8(b)(4)]. The applicant shall comply with such request within 10 days of its receipt or shall indicate within 10 days reasons why the request cannot be complied with.

(f) When the OCS Plan submitted to the Executive Director by the ~~USGS~~ Area Supervisor has deleted confidential and proprietary information, the places where such information has been deleted and the general subject matter of the information shall be identified. Where the Executive Director determines that such confidential and proprietary information is necessary to adequately assess the coastal zone effects of the activities described in the OCS plan and therefore to make a reasoned decision on the consistency of such activities, such information shall be provided after the Executive Director has provided adequate assurance of confidentiality in accordance with the ~~provisions of the Outer Continental Shelf Lands Act, as amended, and the Freedom of Information Act, and their~~ applicable implementing federal regulations (15 CFR Section 930.77 and 30 CFR Part 252). The procedures specified in §13660.3(e)

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apply to the Executive Director's request for confidential and proprietary information.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008 Public Resources Code. Federal law: 16 USC ~~1451~~ 1456 (c) ~~et seq.~~, 15 CFR Sections, 930.77, 930.58 and 30 CFR Part 252.

13660.4. Staff Summary, Recommendation, and Hearing Notice. After receipt of the OCS plan, environmental report, consistency certification ~~determination~~ and the accompanying findings and assessments and any other information which the Executive Director deems necessary, the Executive Director shall:

(a) Prepare a staff summary and recommendation of the applicant's findings and assessments and send ~~the summary~~ it to the applicant, the Assistant Administrator, the ~~USGS~~ Area Supervisor, and other relevant Federal agencies, ~~the affected Regional Commissions~~, local governments, state agencies, and other interested parties. If the vote on the certification is scheduled for a later meeting than the oral hearing, the Executive Director shall prepare a separate staff recommendation according to the requirements of Chapter 5, Article 12 (T. 14 Cal. Adm. Code).

(b) Schedule a ~~State Coastal~~ Commission public hearing on the applicant's consistency certification ~~determination~~, findings and assessments and the staff summary, and recommendation, giving appropriate notice to all interested parties, (as listed in §13660.4(a) above), with particular emphasis on informing citizens of the coastal area which will be affected pursuant to the permit regulations in Chapter 5 (T. 14 Cal. Adm. Code) unless specifically changed herein. The Director shall endeavor, where possible, to schedule the public hearing in the affected region. The notice shall announce the availability for inspection of the applicant's consistency certificate and findings. The state and regional agencies responsible for

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air and water quality compliance shall be notified and provided the opportunity to present their agencies' positions before the Commission hearing. Such hearing shall be set for a regular Coastal Commission meeting not later than the 49th*~~42nd~~*day after receipt of the documents required by Section 13660.3. The Executive Director may, at his discretion, extend for an additional 30 days the 49-day*~~42-day~~*time period for a hearing. All public hearings shall be scheduled with a view toward allowing widespread public distribution of the information contained in the staff's summary and recommendation and toward allowing maximum public participation and attendance at the hearing particularly for the citizens of the affected area, while affording the applicant expeditious consideration of consistency certifications.*~~determinations~~.*

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008 and 30621, Public Resources Code. Federal law: 16 USC 1456(c) ~~14[illegible] et seq.~~, 15 CFR 930.79, 930.84(a), 930.61(a), 930.63.

13660.5. Contents of Summary and Recommendation. The summary shall: (1) list the major activities listed in the OCS plan, for which a consistency certification has*~~determination, assessments and findings have~~* been required, (2) discuss the effect of these activities and their associated facilities, ~~and~~*~~their effects~~*on land*~~and~~*or water uses in the coastal zone, (3) discusss the consistency of such activities and related effects with the mandatory provisions of the CCMP. The summary shall also specifically list all other Federal permits for which consistency findings have not been enclosed and for which future consistency certification *~~determinations~~*will be required under Section 13660.11 of these regulations.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Sections 30008 and 30621, Public Resources Code. Federal law: 16 USC 1456(c), 15 CFR 930.79, 930.84(a), 930.61(a), 930.63.

13660.6. Conduct of Hearings on Staff Recommendation on a Consistency Certification.*~~Determination~~.* The Commission shall conduct *~~be the~~*

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*~~final decision maker on consistency determinations and shall conduct~~*de novo hearings on consistency certifications*~~determinations~~*substantially in accordance with the applicable procedures for permit hearings set forth in *~~Sections 13057 through 13096, excluding Sections 13071, 13085, and 13087 of these Regulations.~~ (T.14 Cal. Adm. Code) *Chapter 5 of these regulations.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008, Public Resources Code. Federal law: 16 USC ~~1457~~ 1456(c) ~~et seq.~~, and 15 CFR 930.79.

13660.7. Consent Calendar Procedures. Consistency certifications at the discretion of the Executive Director may be included as a consent calendar item pursuant to Chapter 5, Article 15 (T.14 Cal. Adm. Code) of these regulations.

NOTE: Authority cited: Section 30333, Public Resources Code. Reference: Section 30008, Public Resources Code.

~~13660.7. Regional Commission Role. The affected Regional Commission(s) may wish to conduct hearings prior to the Commission hearing, and based on those hearings present testimony at the Commission hearing. The Regional Commission hearing panel may include State Commissioners. Upon written request by a Regional Executive Director, the Executive Director may extend for an additional 30 days the 42-day time period for its hearing required by Section 13660.4 in order to allow a full hearing at the Regional Commission level. Any Regional Commission hearings shall also be conducted substantially in accordance with Sections 13064-13096 of these regulations. The Regional Commission and State Commission shall attempt to hold a joint hearing where possible.~~

13660.8. Final Commission Decision. (a) The Commission shall issue a decision on whether the applicant's consistency certification complies with the CCMP; i.e., whether it "concurs" or "objects" to the applicant's consistency certification, at the earliest practicable time and in no event

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more than 6 months from the date of the receipt of such consistency certification and required information from the[ ] Area Supervisor (see Section 13660.3 of these regulations). If a Commission decision has not been reached within 3 months of such receipt, the Executive Director shall notify in writing the Assistant Administrator, the applicant, the[ ] Area Supervisor, and the relevant Federal agencies of the status of review and the basis for further delay.

(b) A Commission decision which objects to an applicant's consistency certification for one or more of the activities described in detail in the OCS plan shall be accompanied by a statement indicating:

(1) the effect which the activity will have on coastal land ~~and~~ or water uses in the coastal zone.

(2) how the activity is inconsistent with a mandatory provision of the CCMP,

(3) alternative measures or conditions (if they exist) which would make the proposed activity consistent with CCMP policies,

(4) if a decision to object is based upon grounds that the applicant has*~~not provided~~*failed to provide information *~~required in Section 13660.3 above, which has been~~*requested by the Executive Director, the type*~~nature~~*of*~~the~~* information requested and the necessity of that information for a consistency certification *~~determination~~*must be described, and

(5) the applicant's right of appeal to the Secretary of Commerce on the grounds that the activity is consistent with the objectives or purposes of the Coastal Zone Management Act or is necessary in the interest of national security.

(c) The Commission shall notify the applicant, the Area

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Supervisor, the Assistant Administrator, and the relevant Federal agencies of its decision by sending a copy of its Final Decision to them.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008 Public Resources Code. Federal law: 16 USC Section ~~1451 et seq.~~ 1456(c), 15 CFR 930.79 and 15 CFR 930.64, 930.63.

13660.9. Appeals Procedure. Any applicant may file a notice of appeal of a Commission objection to a consistency certification within 30 days of receipt to the Secretary of Commerce according to the provisions of the Coastal Zone Management Act (16 USC Sec. 1451 et. seq.) and the regulations contained in 15 CFR Par 930.120 et seq. ~~Any applicant who appeals to the Secretary of Commerce a Commission objection to a consistency determination~~ The applicant shall send a copy of the notice of appeal and accompanying documents to the Executive Director. ~~of the Commission.~~ The Executive Director shall submit detailed comments to the Secretary of Commerce within 30 days of receipt of the appeal and transmit ~~send~~ copies ~~of such comments~~ to the applicant, the Area Supervisor, and the relevant Federal agencies. Where the Commission meeting schedule allows sufficient time for discussion prior to the 30 day period, these comments shall be the subject of Commission discussion with opportunity for public comment. This procedure shall also be followed if the Secretary of Commerce pursues an independent review of the consistency of an OCS activity.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008 Public Resources Code. Federal law: 16 USC Section ~~1451 et seq.~~ 1456(c), 15 CFR 930.120-134.

13660.10. Required Amendments. Any amendment to an OCS plan which must be submitted as a result of Commission objection to consistency of an OCS activity shall be processed as if such amendment were a new plan; i.e., Sections 13660.1-.13 of these regulations apply, except that the Commission

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must make its decision within 3 months of receipt.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008 Public resources Code. Federal law: 16 USC Section ~~1451 et seq.~~ 1456(c), 15 CFR Parts 930.83, 930.84, 930.85, 930.86.

13660.11. Multiple Permit Review. (a) Applicants are strongly encouraged to include with OCS plans ~~with consistency certifications required to be submitted to the Commission in accordance with Section 13660.3 of these regulations~~, detailed descriptions, consistency certifications ~~determinations~~, findings and assessments and other supporting data for other OCS-related activities, which require a federal license or permit but are not required to be described in detail in OCS plans by the Secretary of the Interior (e.g., Corps of Engineer permits for the placement of structures on the OCS and for dredging and the transportation of dredged material, Environmental Protection Agency air and water quality permits for offshore operations and onshore support and processing facilities, or the other permits listed in Section 13660.1 of these regulations). Where consistency certifications ~~determinations~~ and related findings and assessments are made for activities for all required Federal permits connected with an OCS plan, the applicant shall so state and consolidated consistency review for these activities will take place at the same time and under the same procedures as review of activities required to be described in detail in OCS plans (Sections 13660.1-.13 of these Regulations).

(b) If consistency certifications ~~determinations~~ and related assessments and findings for all OCS related Federal permit activities are not included with an OCS plan and consistency certification ~~determination~~, the applicant shall state which Federal permit activities have not been included. ~~The Commission will review those permit activities which are not~~

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~~included separately~~. The final decision of the Commission ~~for consistency determinations of OCS plan activities~~ shall state which Federal permit activities have not been included and ~~which~~ therefore must be reviewed separately.

(c) The applicant and the Coastal Commission shall comply with Sections 136 0-13660.13 of these regulations in processing consistency certifications~~determinations~~ which have not been included with OCS plans, except that:

(1) As soon as possible, but at least 10 days ~~pior~~ prior to submission of an application for a Federal permit, the applicant shall consult with the Executive Director concerning OCS-related Federal license or permit activities.

(2) An environmental report as described by 30 CFR 250.34-3(a) and 3(b) need not be submitted, if one which covered the subject permit activity was previously submitted under Section 13660.3 of these regulations, or if the Executive Director is satisfied that the applicant has provided sufficient information concerning the environmental effects of the permit activity to adequately review the project as if it were a coastal permit under the CCMP.

(3) Wherever there is a requirement to notify the Area Supervisor, notification shall also be sent to the appropriate ~~chief of the~~ Federal permitting agency.

NOTE: Authority cited: State law: Section 30333, Public resources Code. Reference: Section 30008 Public Resources Code. Federal law: 16 USC Section ~~1451 et seq.~~ 1456 (c), 15 CFR 930.82.

13660.12. Associated Coastal Development Permits. Where a facility associated with an OCS plan ~~precedes requires~~ requires a coastal development permit application under the California Coastal Act (e.g. pipeline, marine terminal, onshore

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support and processing facilities, etc.), the applicant shall notify the Executive Director of the facility's relationship to the OCS plan at the time of submittal of the plan. Where ~~an~~ a coastal permit application for such a facility precedes submittal of the OCS plan to the Commission, the applicant shall notify the Executive Director that the facility is associated with a forthcoming OCS plan. If the Executive Director determines that a consolidated review of the applicant's consistency certification*~~determination~~*and application for a coastal development permit is necessary for complete and proper consideration of the matter, he shall recommend such*~~direct~~*consideration in whatever manner necessary to comply with applicable time limitations. ~~of such permit application by the State Coastal Commission pursuant to §30333.5 of the Coastal Act.~~*

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008 Public Resources Code. Federal law: 16 USC Section 1456(c) ~~1451 et seq.~~, 15 CFR 930.82

13660.13. Monitoring of Federal Permits. Copies of Federal license and permit applications for activities described in detail in an OCS plan, as well as for OCS-related activities, which have received Commission concurrence and which have been requested in the final Commission decision, shall be sent by the applicant to the Executive Director to allow the Commission to monitor the activities.

NOTE: Authority Cited: State Law: Section 30333, Public Resources Code, Reference; Section 30008, Public Resources Code. Federal law: 16 USC Section 1456(c) ~~1451 et seq.~~, 15 CFR 930.86.

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Adopt Chapter as follows:

MAL-MAJ-1-08 CHAPTER 11: ENERGY FACILITIES AND LCP "OVERRIDE" PROCEDURES

SUBCHAPTER 1. (RESERVED)

SUBCHAPTER 2. CERTIFIED LOCAL COASTAL PROGRAM (LCP) AMENDMENT "OVERRIDE PROCEDURES

13666. Applicability

These procedures are applicable to persons authorized to undertake a public works project or proposing energy facility development that requires LCP amendments provided that the development meets the following two requirements:

(1) un nticipated by the person proposing the development at the time the LCP ~~the Local Coastal Program~~ was before the Commission for certification.

(2) meets the public needs of an area greater than that included in the certified ~~local Coastal Program.~~ LCP.

All other developments requiring an amendment to the certified ~~Local Coastal Program~~ LCP shall follow the LCP ~~Coastal Program~~ amendment procedures of the affected local government and the Commission.

NOTE: Authority Cited: Section ~~30515~~ 30333, Public Resources Code. Reference: 30515, PRC.

13666.1. Information Requirements for Preliminary Determination of Applicability

A person desiring review according to this subchapter may first submit an LCP amendment application (following the requirements of the affected local government) to the Executive Director with sufficient information setting forth the reasons for the amendment with particular emphasis on the applicability requirements as specified in Section 13666, and how it conforms with the policies of ~~Chapter 3.~~ Public Resources Code Section 30200 et. seq. The Executive Director shall, within 30 days, review the Local Coastal Program file and the projected scope of this subchapter. A determination of the Executive Director is final and shall be forwarded to the affected local government and the person desiring review.

NOTE: Authority Cited: Section 30333, Public Resources Code. Reference: 30515, PRC.

13666.2. Submittal to Local Government

(a) If the Executive Director has preliminarily determined that the development is subject to this subchapter, the application shall first be submitted to the affected local government for an LCP ~~Coastal Program~~ amendment according to applicable requirements. The local government shall make its determination based on factual findings and reasoning supporting the conclusions of law set forth in this subchapter. If the local government fails to amend the LCP ~~Coastal Program~~ within 90 days of submittal, the person submitting such an amendment may file a request for an amendment with the Commission.

(b) If the applicant has not requested a preliminary determination, or if the Executive Director has determined that the override provisions do not apply, the applicant may nevertheless request the Commission to consider the application through an appeal from a final local government decision. The appeal from the local government's decision shall follow local coastal program regulations and additionally include the information requirements of this subchapter in order to advise the Commission that in the applicant's opinion, the development is subject to Section 30515.

NOTE: Authority Cited: Section ~~30515~~ 30333, Public Resources Code. Reference: Section 30515, Public Resources Code.

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13666.3 Commission Review

Commission review shall be undertaken only after consultation with the affected local government and review shall be conducted according to the LCP. ~~Coastal Program~~ regulations. A local government resolution is not required if the local government fails to act within 90 days as specified in 13666.2(a).

NOTE: Authority Cited: Section ~~30515~~ 30333, Public Resources Code. Reference: 30515, PRC.

13666.4 Required Findings

(a) If the recommendation is for Commission approval as proposed or modified (i.e., conditioned), the recommendation shall be accompanied by specific factual findings and reasoning which, after a careful balancing of social, economic, and environmental effects, supports the following conclusions:

(1) development meets a public need of a geographic area greater than that included within the certified ~~local~~ LCP ~~Coastal Program.~~

(2) development conforms with and is adequate to carry out the policies of ~~Chapter 3.~~ Public Resources Code Section 30200 et. seq.

(3) if significant adverse environmental impacts have been identified, reasonable alternatives have been examined, and mitigation measures have been included that substantially lessen any significant adverse environmental impact so that there is no feasible less environmentally damaging way to meet the public need. If the development will have no significant adverse environmental impact, findings shall be included which support that conclusion.

(4) disapproval would adversely affect the public welfare as identified in the findings, declarations, and general provisions of the Coastal Act (Public Resources Code Section 30000 et. seq.) and the California Coastal Management Program, if applicable.

(b) If the recommendation is for Commission denial, the recommendation shall state specifically the grounds for denial, based upon the findings and relevant facts which after a careful balancing of social economic and environmental effects support the conclusions listed in Section 13666.4.

NOTE: Authority Cited: Section ~~30515~~ 30333, Public Resources Code. Reference: Section 30515, Public Resources Code.

CHAPTER 1
GENERAL PROVISIONS

13012. Major Public Works and Energy Facilities: "Major public works" and "Major energy facilities" ~~means any public works~~ mean facilities ~~*located within an area listed in Public Resources Code, Section 30601(1) and (2),*~~ that ~~costs~~ cost more than ~~fifty~~ one hundred thousand dollars ~~($50,000)~~ ($100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Public Resources Code Sections 30610, 30610.5, 30611, or 30624.

NOTE: Authority Cited: Section ~~30601~~ 30332, Public Resources Code. Reference: Section 30601, Public Resources Code.

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State of California

Memorandum

To : Deborah Warren
Office of Administrative Law
1414 K Street
Sacramento, CA 95814

Date : May 25, 1982

Subject: Energy Facilities, Consistency, LCP Override Regulations

From : **California Coastal Commission**
Linda L. Breeden, Energy Counsel

The Coastal Commission held public hearings on the proposed regulations on March 19, 1982, April 21, 1982, and May 6, 1982. The regulations were adopted on May 6, 1982 and the agency's rulemaking file closed as of that date. I am submitting the rulemaking file, plus 6 copies of the regulations for OAL to conduct its review. If there are questions I can answer, please call.

1. Phone conversation w/ OAL - 6/14/82
received at OAL June 4, 1982
according to their log book
file-82-06-04-4

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CALIFORNIA COASTAL COMMISSION
631 Howard Street, San Francisco 94105 — (415) 543-8555

I hereby certify that the enclosed rule-making file is a true and correct copy of the rule-making file prepared for review and approval of the regulations submitted for approval by the Coastal Commission and the Office of Administrative Law.

Linda L. Breeden

Linda L. Breeden
Energy Counsel

May 25, 1982

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CALIFORNIA COASTAL COMMISSION
631 Howard Street, San Francisco 94105 — (415) 543-8555

I hereby certify that the enclosed rule-making file is a true and correct copy of the rule-making file prepared for review and approval of the regulations submitted for approval by the Coastal Commission and the Office of Administrative Law.

Linda L. Breeden

Linda L. Breeden
Energy Counsel

May 25, 1982

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TRANSCRIPT OF HEARING ON REGULATIONS

MARCH 19, 1982

AMFAC HOTEL

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COMMISSIONER SCHWARTZ: Now we're on item 15c and staff is not proposing that we take action on this today, is that correct?

LINDA BREEDEN: That's correct. This is just to open the public hearing. This set of regulations has basically three categories. Two of them are routine changes to the consistency and public works regulations. The most important new regulation is on the LCP override section of the Coastal Act, which is 30515. That section is applicable to public works and energy facilities and it is very important to our national interest--implementation of the Coastal Zone Management Act--that we have regulations on Section 30515. The regulations that are in the packet establish the procedures to use this section and are necessary because we have local governments that are undertaking permit issuance authority after certification of the LCPs.

COMMISSIONER SCHWARTZ: Than you. We will open the public hearing and hear from Naida West.

NAIDA WEST: Thank you. I'm Naida West, representing the California Council for Environmental and Economic Balance. For a variety of reasons, energy needs of the Nation and the state are difficult planning considerations for local governments. Further, it is unrealistic, we believe, to expect the collective coastal local governments acting independently in a long series of actions over time to develop the most rational planning for needed onshore energy facilities. CEEB has therefore always supported the assumption of a major state role, together with local government and affected industries, in comprehensive statewide planning for those needs. Section 30515 of the Coastal Act appropriately allows Coastal Commission to approve LCP amendments when necessary over the objections of local government. Section 30515 is therefore a very key and important provision which could be used, if it became necessary, to facilitate that statewide planning process. Unfortunately, the wording of the provision is not as helpful as it could be towards that end because it can be interpreted in a way that inhibits industry participation in early planning for long-range needs.

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With regard to the proposed Chapter 11 regulations, which would implement Section 30515, CEEB has concerns which it believes go beyond the scope of regulations to solve. The problem is that the proposed regulations repeat the basic ambiguities in the Act with regard to which developments would qualify to trigger the override provision and whether early revelation of possible needs for energy facilities in a particular area may in some way destroy the ability of your agency later to approve a needed LCP amendment. Because CEEB is currently working actively with the petroleum industry to encourage long-range planning for facilities as well as maximum cooperation with your staff, the Council--CEEB--is concerned that there is--there is concern whether there is an inhibition on the part of industry created by the wording of the Act. Council felt that at this particular time, as long as you were considering the regulation to implement that section of the Act, that this was an appropriate time to bring this concern to you, but we are not now proposing specific changes, as I said to you before--we believe that these changes may go beyond the scope of the regulations to solve. We wanted to bring this to your attention. Thank you very much.

COMMISSIONER SCHWARTZ: Thank you. Close the public hearing. Well, actually, leave the public hearing open because we're not going to act today. Do we have an idea of whether or not this will be on our next agenda or next Southern California agenda?

LINDA BREEDEN: It's scheduled for your next Southern California agenda and comments are going to be received until April tenth.

COMMISSIONER SCHWARTZ: All right. Thank you.

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ITEMS 10 (a) & (b)

LCP HEARING POSTPONEMENT REGULATIONS

CONSISTENCY, PUBLIC WORKS, AND ENERGY FACILITIES

CALIFORNIA COASTAL COMMISSION

APRIL 21, 1982

AMFAC HOTEL
8601 LINCOLN BLVD.
LOS ANGELES, CALIFORNIA

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1 CHAIRMAN SCHWARTZ: ...Item 10 (a), LCP Hearing Post-
2 ponement Regs.
3 ROY GORMAN: You have before you an April 9th memo,
4 relating to Section 13533. This is a revision of a regulation,
5 which was previously noted by the Commission as using some--
6 should have some improvement. It requires that reponses
7 to--to significant environmental points be either in the
8 staff report, or otherwise provided to the Commission, and
9 to the person making the comment, and available for other
10 people who wish to pick them up at the meeting, but not necess-
11 arily mail them to everyone who spoke. And, with that--
12 COMMISSIONER RAMOS: So move.
13 COMMISSIONER FLYNN: Second.
14 CHAIRMAN SCHWARTZ: All those in favor?
15 Aye.
16 COMMISSIONER FLYNN: Aye.
17 COMMISSIONER MC CARTHY: Aye.
18 COMMISSIONER SHIPP: Aye.
19 COMMISSIONER SHIPP: Aye.
20 COMMISSIONER RAMOS: Aye.
21 COMMISSIONER CALLAHAN: Aye.
22 CHAIRMAN SCHWARTZ: Opposed?
23 None.
24 ROY GORMAN: We presume that there was no one to speak,
25 and therefore--

FORM OR-325 REPORTERS PAPER & MFG. CO. 800-626-6313

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CHAIRMAN SCHWARTZ: There was no one to speak, correct.

ROY GORMAN: --there--

CHAIRMAN SCHWARTZ: We do have a speaker on the next item, however, but we will start with staff.

ROY GORMAN: The next set of regulations, staff does not have a major report. We are not proposing action on this. We have recently received some comments from the Chevron, and part of the reason we are proposing no action is in order to respond to that.

These regulations are basically to govern consistency review of outer continental shelf plans, and we are not proposing action, in order to accommodate at least Chevron's concerns with the regulations as drafted.

CHAIRMAN SCHWARTZ: Mr. Moore?

MR. MOORE: We appreciate the staff has already been very, very responsive and accessible to us and the general public, and we thank them for that.

Is it tabled to the next hearing? Or, how will that work?

ROY GORMAN: If you wanted to speak to the Commission, you could do so now. It will probably come up on the next southern California meeting, depending--because of the notice schedule.

MR. MOORE: Would the Commission prefer that I speak now, or--

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CHAIRMAN SCHWARTZ: Well, I think it would be more effective if you waited until then, but suit yourself. You do have the opportunity to speak--

MR. MOORE: If I have the opportunity to speak then I can wait until then.

CHAIRMAN SCHWARTZ: Okay.

MR. MOORE: That will be fine.

CHAIRMAN SCHWARTZ: Thank you.

MR. MOORE: Thank you.

CHAIRMAN SCHWARTZ: So these are postponed, that is action is postponed.

ROY GORMAN: Madam Chairman?

CHAIRMAN SCHWARTZ: Yes.

ROY GORMAN: Ms. Goehler has informed me it is on for May 5.

CHAIRMAN SCHWARTZ: May 5. And, that was previously scheduled? That is not something we are scheduling this minute?

ROY GORMAN: No, no, that--

CHAIRMAN SCHWARTZ: Because that agenda is out.

ROY GORMAN: --was on the agenda. We had already re-agendized it.

CHAIRMAN SCHWARTZ: Right. All right.

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1
2
3 CERTIFICATION

4 I, PRISCILLA PIKE, acting as an
5 official hearing reporter for the
California Coastal Commission, whose
6 offices are located at 631 Howard
7 Street, San Francisco, California,
8 DO HEREBY CERTIFY that I have
9 transcribed my stenographic notes
for the foregoing pages 1 through
10 3, inclusive.
11 That they comprise a full, true,
12 and correct transcript, to the best
of my ability, of the proceedings
13 reported by me on April 21, 1982.
14
15
16
17
18
19 DATED: April 28, 1982
20
21
22
23
24
25

PRISCILLA PIKE
6367 Swallow Street
Ventura, CA 93003
(805)654-0651

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State of California

Memorandum

To :
Steve Sichel, Attorney
OAL
1414 K street
Sacramento, Calif. 95814

Date : December 2, 1982

Subject: Consistency/LCP Regulations
Cal. Coastal Commission
14 Cal. Adm Code 13660

From : Linda Breeden, Energy Counsel
California Coastal Commission

Enclosed is a certified face sheet of the regulations adopted May 7, 1982 by the Commission, including the original signature of Roy Gorman.
I have discussed the withdrawal or rejection of Section 13012 as it pertains to energy facilities with appropoaate staff members and the agency has decided not to withdraw the regulation. Please note that the notice refers to energy facilities and we believe it adequately covers the amendment language. We also believe it would be inappropriate to do otherwise, given the need for the Agency to have energy regulatio in place. Please forward me copies of your action on this matter and your notices so that we may be kept informed.

Very truly yours,

Linda Breeden

Linda Breeden

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OAL-4 (Interim)

FACE SHEET
FOR FILING ADMINISTRATIVE REGULATIONS WITH THE OFFICE OF ADMINISTRATIVE LAW AND WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11343.1)

Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

California Coastal Commission
(Agency)

_____
(Billing Code)

Date of adoption, amendment, or repeal:

MAY 7, 1982

By: X Roy Gorman

ROY GORMAN, CHIEF COUNSEL
(Title)

DO NOT WRITE IN THIS SPACE

DO NOT WRITE IN THIS SPACE

The attached regulations which are being adopted, amended or repealed are contained in Title 14 _____ of the California Administrative Code.

Division, Part, Chapter, etc., affected by this order: DIVISION 5.5, CHAPTER 1, CHAPTER 10.

TYPE OF ORDER (Check as applicable)

- [ ] Emergency (Attach Finding of Emergency)
- [ ] Certificate of Compliance
- [ ] Certificate of Non-Compliance
- [x] Regular
- [ ] Procedural and Organizational

CHECKLIST OF MANDATORY REQUIREMENTS

- [x] One Certified Copy With Original Signature and Six Copies of Order or Certificate of Compliance Attached
- [x] Regulation Summary (Form 690) Attached (1 copy)
- [x] Publication Date (in Notice Register) of Notice for Attached Order or Certificate of Compliance is 2/17/82
- [x] Authority and Reference Citation Placed Beneath Each Section in Attached Order
- [x] Cost Statement Attached (Refer to SAM Section 6050)

Effective Date:

- [x] On _____ as Specified by Statute _____ _____, or
- [ ] On _____, if Later Than 30 Days After Filing With the Secretary of State (Emergency regulations will be effective upon filing with the Secretary of State; all other regulations will be effective 30 days after filing with the Secretary of State.)
- [x] Rule-Making File

BUILDING STANDARDS (Check one)

- [x] These regulations contain no building standards under Health and Safety Code Sections 18900-18915.
- [ ] These regulations do contain building standards under Health and Safety Code Sections 18900-18915. The attached copy contains Building Standards approval.

CONFLICT OF INTEREST (Check one if attached are Conflict of Interest Regulations)

The attached Conflict of Interest Regulations contain the FPPC approval stamp and:

- [ ] Are to be published in full in the Administrative Code.
- [ ] Are to be codified by appropriate reference in the Administrative Code, and include a statement as to where the full text may be obtained.

CAMPAIGN DISCLOSURES (Check if emergency Campaign Disclosure Regulations)

- [ ] These are emergency regulations pertaining to campaign disclosure law and were adopted by unanimous vote of all board or commission members present at the regulation adoption proceeding.

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State of California)
) SS.
County of San Francisco)

On this 25th day of May, in the year 1982, before me Fay Thomas, a Notary Public, personally appeared T. R. Dawson, personally known to me to be the person who executed this instrument as Chief Counsel (TITLE) of California Coastal Commission and acknowledged to me that the public agency executed it.

FAY THOMAS
NOTARY PUBLIC-CALIFORNIA
CITY AND COUNTY OF
SAN FRANCISCO
My Commission Expires Dec. 14, 1984

Fay Thomas
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

(800) 666-1917

State of California

Memorandum

To :

Tony Perez

Date : February 17, 1982

File No.:

Proposed Regulations
Consistency and LCP Override Procedure

From : Linda L. Breeden, Energy Counsel
California Coastal Commission

Enclosed is a set of notice of proposed changes to regulations for publication in the Notice Register. I have enclosed an extra notice. Please stamp it and return to me in the enlosed envelope with the date of publication on it for our records.

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CHAPTER 11: ENERGY FACILITIES AND LCP "OVERRIDE" PROCEDURES

SUBCHAPTER 1. (RESERVED)

SUBCHAPTER 2. CERTIFIED LOCAL COASTAL PROGRAM (LCP) AMENDMENT "OVERRIDE" PROCEDURES

13666. Applicability

These procedures are applicable to persons authorized to undertake a public works project or proposing energy facility development that requires LCP amendments provided that the development meets the following two requirements:

(1) unanticipated by the person proposing the development at the time the Local Coastal Program was before the Commission for certification

(2) meets the public needs of an area greater than that included in the certified Local Coastal Program

All other developments requiring an amendment to the certified Local Coastal Program shall follow the Local Coastal Program amendment procedures of the affected local government and the Commission.

13666.1. Information Requirements for Preliminary Determination

A person desiring review according to this subchapter may first submit an LCP amendment application (following the requirements of the affected local government) to the Executive Director with sufficient information setting forth the reasons for the amendment with particular emphasis on the applicability requirements as specified in Section 13666, and how it conforms with the policies of Chapter 3. The Executive Director shall, within 30 days, review the Local Coastal Program file and the projected scope of this subchapter. A determination of the Executive Director is final and shall be forwarded to the affected local government and the person desiring review.

13666.2. Submittal to Local Government

(a) If the Executive Director has preliminarily determined that the development is subject to this subchapter, the application shall first be submitted to the affected local government for a Local Coastal Program amendment according to applicable requirements. The local government shall make its determination based on factual findings and reasoning supporting the conclusions of law set forth in this subchapter. If the local government fails to amend the Local Coastal Program within 90 days of submittal, the person submitting such an amendment may file a request for an amendment with the Commission.

(b) If the applicant has not requested a preliminary determination, prior to submittal of an amendment application to the local government, he may nevertheless request the Commission to consider the application through an appeal from a final local government decision as subject to the override provisions. The appeal from the local government's decision shall follow local coastal program regulations of the affected local government and the Commission and include the information requirements of this subchapter in order to advise the Commission that in the applicant's opinion, the development is subject to Section 30515.

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13666.3 Commission Review

Commission review shall be undertaken only after consultation with the affected local government and with the exception of the local government resolution, review shall be conducted according to the Local Coastal Program regulations.

13666.4 Required Findings

(a) If the recommendation is for Commission approval as proposed or modified (i.e., conditioned), the recommendation shall be accompanied by specific factual findings and reasoning which, after a careful balancing of social, economic, and environmental effects, supports the following conclusions:

(1) development meets an identified public need of a geologic area greater than that included within the certified Local Coastal Program.

(2) development conforms with and is adequate to carry out the policies of Chapter 3.

(3) if significant adverse environmental impacts have been identified, reasonable alternatives have been required and mitigation measures included that substantially lessen any significant adverse environmental impact so that there is no feasible less environmentally damaging way to meet the public need. If the development will have no significant adverse environmental impact, findings shall be included which support that conclusion.

(4) disapproval would adversely affect the public welfare as identified in the findings, declarations, and general provisions of the Coastal Act.

(b) If the recommendation is for Commission denial, the recommendation shall state specifically the grounds for denial, based upon the findings and relevant facts which after a careful balancing of social economic and environmental effects support the conclusions listed in Section 13666.4.

CHAPTER 1
GENERAL PROVISIONS

13012. Major Public Works: "Major public works" means any public works ~~*located within an area listed in Public Resources Code, Section 30601(1) and (2),*~~ that costs more than fifty thousand dollars ($50,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Public Resources Code Sections 30610,30610.5, 30611, or 30624.

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Chapter 10. Federal Consistency*~~Determination~~*
Subchapter 1. Commission Procedures for Consistency Certifications*~~Determinations~~*for Outer Continental Shelf (OCS) Exploration, Development or Production Plans and for OCS Related Federal Permits.

13660. Definitions. (a) The term "applicant" means any individual, corporation, partnership, association, or other entity organized or existing under the laws of any State, the Federal government, any State, regional or local government, or any entity of such Federal, State, regional or local government, who submits to the USGS Area Supervisor (or other designee of the Secretary of Interior) after August 31, 1978, an OCS Plan*~~which describes in detail activities~~ requiring a Federal license or ~~permit~~.*

(b) The term "OCS plan" means any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act, as Amended, (43 U.S.C. §1331 et. seq.), and the regulations under that Act, which describes in detail activities requiring a Federal license or permit.

(c) The term "USGS Area Supervisor" means the Pacific Area Oil and Gas Supervisor, United States Geological Survey, Department of the Interior.

(d) The term "Assistant Administrator" means the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, Department of Commerce.

(e) The term "Executive Director" means the Executive Director of the California Coastal Commission.

(f) The term "California Coastal*~~Zone~~*Management Program" (CCMP) means the program approved by the Department of Commerce pursuant to the Coastal Zone Management Act (16 USC Section 1451 et.seq.).

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NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference cited: Section 30008~~(c)~~, Public Resources Code. Federal law: 16 USC Section 1451 et. seq.; 15 CFR Part 930 et. seq. as adopted June 25, 1979, 44 FR 37143.

13660.1. Preliminary Consultation. (a) As soon as possible, but at least 10 days prior to submission to the USGS Area Supervisor, of any plan* ~~required to be submitted under the Outer Continental Shelf Lands Act, as amended, (43 USC 1331 et seq.)~~*for the exploration of areas leased under the Outer Continental Shelf Lands *~~that~~*Act, and at least 30 days prior to submission of plans for the development or production of areas leased under that Act, any applicant wishing to undertake such activities in areas adjacent to California waters shall consult with the Executive Director at the state office concerning all the activities required to be described in detail in the OCS plan affecting the land or water uses in the coastal zone*~~which affect land and water uses.~~*

This shall include, at minimum, activities requiring the following federal approvals:

USGS - Department of the Interior

- Approval of offshore drilling operations
- Approval of design plans for the installation of platforms
- Approval of gathering and flow lines

The following OCS related Federal license or permit activities are encouraged to be included if they will be required in connection with the OCS activity.

Department of Defense - U.S. Army Corps of Engineers

- Permits and licenses required under Sections 9 and 10 of the Rivers Harbors Act of 1899
- Permits and licenses required under Section 103 of the Marine

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Protection, Research and Sanctuaries Act of 1972

- Permits and licenses required under Section 404 of the Federal Water Pollution Control Act of 1972 and amendments
- Permits for artificial islands and fixed structures located on the Outer Continental Shelf (Rivers and Harbors Act of 1899 as extended by 43 U.S.C. 1333(f)

Department of the Interior - Bureau of Land Management - USGS

- Permits and licenses required for drilling and mining on public lands (BLM)
- Permits for pipeline rights-of-way on the Outer Continental Shelf
- Permits and licenses for rights-of-way on public lands

Environmental Protection Agency

- Permits and licenses required under Sections 402 and 405 of the Federal Water Pollution Control Act of 1972 and amendments
- Permits and applications for reclassification of land areas under regulations for the prevention of significant deterioration (PSD) of air quality

Department of Transportation - U.S. Coast Guard

- Permits for construction of bridges under 33 USC 401, 491-507 and 525-534
- Permits for deepwater ports under the Deepwater Port Act (P.L.93-627)

Federal Energy Regulatory Commission

- Certifications required for interstate gas pipelines
- Permits or licenses for construction and operation of facilities needed to import, export or transship natural gas or electrical energy

Any other OCS related Federal license or permit activities which are not listed above are also encouraged to be included, if they will be required in connection with the OCS activity.

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(b) The Executive Director shall provide the applicant with a copy of the California Coastal Management Plan ("CCMP") upon request.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008(c), Public Resources Code. Federal law: 15 CFR 930.75, 930.82, 930.64, 930.77.

13660.2. [RESERVED]

13660.3. Submission of Consistency Certification. (a) The applicant shall submit to the USGS Area Supervisor who in turn shall submit to the Executive Director: the OCS plan, with accompanying consistency certification and supporting information for all activities required to be described in detail in the plan and identified in Section 13360.1(a) of these regulations, and the environmental report as soon as it is approved by the USGS Area Supervisor pursuant to 30 CFR 250.34-1 for exploration plans or 30 CFR 250.34-2 for development and production plans.

(b) The consistency certification*for all activities described in detail in the OCS plan as required by Section 13660.3(a) above*shall be in the following form:

> The proposed activities described in detail in this plan comply with California's approved coastal management program and will be conducted in a manner consistent with such program.

(c) The applicant shall also include the following supporting information:

(1) a brief assessment relating the probable coastal zone effects of each of the enumerated activities and their associated facilities to the relevant elements of the program policies of the CCMP; and

(2) a brief set of findings derived from the assessment indicating that each of the enumerated activities (e.g. drilling, platform

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placement) and its associated facilities (e.g. onshore support structures, offshore pipelines), and its primary effects (e.g. air, water, waste discharges, erosion, wetlands, beach access impacts) are consistent with the mandatory provisions of the CCMP.

(d) Upon request of the applicant, the California Coastal Commission staff will provide assistance in preparing the assessment and findings required in Section 13660.3(c)(1) and (2) of these regulations.

(e) The Executive Director may request in writing additional data and information from the applicant if he deems it necessary for a complete and proper review. Such a request shall not extend the date for commencement of Coastal Commission review; however, failure to submit the requested information could result in an objection to the applicant's consistency certification *determination*[See §13660.8(b)(4)]. The applicant shall comply with such request within 10 days of its receipt or shall indicate wthin 10 days reasons why the request cannot be complied with.

(f) When the OCS Plan submitted to the Executive Director by the USGS Area Supervisor has deleted confidential and prorietary information, the places where such information has been deleted and the general subject matter of the information shall be identified. Where the Executive Director determines that such confidential and proprietary information is necessary to adequately assess the coastal zone effects of the activities described in the OCS plan and therefore to make a reasoned decision on the consistency of such activities, such information shall be provided after the Executive Director has provided adequate assurance of confidentiality in accordance with the*provisions of the Outer Continental Shelf Lands Act, as amended, and the Freedom of Information Act, and their*applicable implementing federal regulations. The procedures specified in §13660.3(e)

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apply to the Executive Director's request for confidential and proprietary information.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008(c), Public Resources Code. Federal law: 15 CFR Sections, 930.77, 930.58 and 30 CFR Part 252.

13660.4. Staff Summary Recommendation, and Hearing Notice. After receipt of the OCS plan, environmental report, consistency certification* determination*and the accompanying findings and assessments and any other information which the Executive Director deems necessary, the Executive Director shall:

(a) Prepare a staff summary and recommendation of the applicant's findings and assessments and send the summary to the applicant, the Assistant Administrator, the USGS Area Supervisor, and other relevant Federal agencies,*~~the affected Regional Commissions~~,*local governments, state agencies, and other interested parties. If the vote on the certification is scheduled for a later meeting than the oral hearing on the staff summary, the Executive Director shall prepare a separate staff recommendation according to the requirements of Chapter 5, Article 12.

(b) Schedule a*State Coastal*Commission public hearing on the applicant's consistency certification*determination,*findings and assessments and the staff summary, and recommendation, giving appropriate notice to all interested parties, (as listed in §13660.4(a) above), with particular emphasis on informing citizens of the coastal area which will be affected pursuant to the permit regulations in Chapter 5 unless specifically changed herein. The Director shall endeavor, where possible, to schedule the public hearing in the affected region. The notice shall announce the availability for inspection of the applicant's consistency certification findings. The state and regional agencies responsible for

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air and water quality compliance shall be notified and provided the opportunity to present their agencies' positions before the Commission hearing. Such hearing shall be set for a regular Coastal Commission meeting not later than the 49th*42nd*day after receipt of the documents required by Section 13660.3. The Executive Director may, at his discretion, extend for an additional 30 days the 49-day*42-day*time period for a hearing. All public hearings shall be scheduled with a view toward allowing widespread public distribution of the information contained in the staff's summary and recommendation and toward allowing maximum public participation and attendance at the hearing particularly for the citizens of the affected area, while affording the applicant expeditious consideration of consistency certifications.*determinations.*

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008(c), and 30621, Public Resources Code. Federal law: 15 CFR 930.79, 930.84(a), 930.61(a), 930.63.

13660.5. Contents of Summary and Recommendation. The summary shall: (1) list the major activities listed in the OCS plan, for which a consistency certification*~~determination~~,*assessments and findings have been required, (2) discuss the effect of these activities and their associated facilities, or*and*their effects on land and water uses in the coastal zone, (3) discusss the consistency of such activities and related effects with the mandatory provisions of the CCMP. The summary shall also specifically list all other Federal permits for which consistency findings have not been enclosed and for which future consistency certification* determinations*will be required under Section 13660.11 of these regulations.

13660.6. Conduct of Hearings on Staff Recommendations on a Consistency Certification.*~~Determination~~.* The Commission shall ~~be*the~~

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final-decision maker on consistency determinations and shall*conduct de novo hearings on consistency certifications*~~determinations~~*substantially in accordance with the applicable procedures for permit hearings set forth in ~~Sections 13057 through 13096, excluding*Sections 13071, 13085, and 13087 of these Regulations.~~* Chapter 5 of these regulations.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008(c), Public Resources Code. Federal law: 15 CFR 930.79 and CZMA.

13660.7. Consent Calendar Procedures. Consistency certifications at the discretion of the Executive Director may be included as a consent calendar item pursuant to Chapter 5, Article 15 of these regulations.

~~13660.7. Regional Commission Role. The affected Regional~~ Commission(s) may wish to conduct hearings prior to the Commission hearing, and based on those hearings present testimony at the Commission hearing. The Regional Commission hearing panel may include State Commissioners. Upon written request by a Regional Executive Director, the Executive Director may extend for an additional 30 days the 42-day time period for its hearing required by Section 13660.4 in order to allow a full hearing at ~~the Regional~~ Commission level. Any Regional Commission hearings shall also ~~be conducted substantially~~ in accordance with Sections 13064-13096 of these ~~regulations. The Regional~~ Commission and State Commission shall attempt to ~~hold joint hearing where possible.~~

Delete

13660.8. Final Commission Decision. (a) The Commission shall issue a decision on whether the applicant's consistency certification complies with the CCMP; i.e., whether it "concurs" or "objects" to the applicant's consistency certification, at the earliest practicable time and in no event

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more than 6 months from the date of receipt of such consistency certification and required information from the USGS Area Supervisor (see Section 13660.3 of these regulations). If a Commission decision has not been reached within 3 months of such receipt, the Executive Director shall notify in writing the Assistant Administrator, the applicant, the USGS Area Supervisor, and the relevant Federal agencies of the status of review and the basis for further delay.

(b) A Commission decision which objects to an applicant's consistency certification for one or more of the activities described in detail in the OCS plan shall be accompanied by a statement indicating:

(1) the effect which the activity will have on coastal land or*and* water uses, in the coastal zone,

(2) how the activity is inconsistent with a mandatory provision of the CCMP,

(3) alternative measures or conditions (if they exist) which would make their proposed activity consistent with CCMP policies,

(4) if a decision to object is based upon grounds that the applicant has to*~~not*provide~~ information*~~required in Section~~ 13660.3 ~~above, which has been~~*requested by the Executive Director, the type*nature*of*~~the~~*information requested and the necessity of that information for a consistency certification *determination*must be described, and

(5) the applicant's right of appeal to the Secretary of Commerce on the grounds that the activity is consistent with the objectives or purposes of the Coastal Zone Management Act or is necessary in the interest of national security.

(c) The Commission shall notify the applicant, the USGS Area

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Supervisor, the Assistant Administrator, and the relevant Federal agencies of its decision by sending a copy of its Final Decision to them.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008(c), Public Resources Code. Federal law: 15 CFR 930.79 and 15 CFR 930.64, 930.63 and CZMA.

13660.9. ~~Appeals Procedure~~. Any applicant may file a notice of appeal of a Commission objection to a consistency certification within 30 days of receipt to the Secretary of Commercere according to the provisions of the Coastal Zone Management Act and the regulations contained in 15 CFR Par 930.120 et seq*~~Any applicant who appeals to the Secretary of Commerce a Commission objection to a consistency determination~~*The applicant shall send a copy of the notice of appeal and accompanying documents to the Executive Director.*~~of the Commission.~~* The Executive Director shall submit detailed comments to the Secretary of Commerce within 30 days of receipt of the appeal and transmit*~~send~~*copies of*~~such comments~~*to the applicant, the USGS Area Supervisor, and the relevant Federal agencies. Where the Commission meeting schedule allows sufficient time for discussion prior to the 30 day period, these comments shall be the subject of Commission discussion with opportunity for public comment. This procedure shall also be followed if the Secretary of Commerce pursues an independent review of the consistency of an OCS activity.

NOTE: Authority cited State law: Section 30333, Public Resources Code. Reference: Section 30008(c), Public Resources Code. Federal law: 15 CFR 930.120-134.

13660.10. Required Amendments. Any amendment to an OCS plan which must be submitted as a result of Commission objection to consistency of an OCS activity shall be processed as if such amendment were a new plan; i.e., Sections 13660.1-.13 of these regulations apply, except that the Commission

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must make its decision within 3 months of receipt.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008(c), Public resources Code. Federal law: 15 CFR Part 930.83 et seq.

13660.11. Multiple Permit Review. (a) Applicants are strongly encouraged to include with OCS plans and*~~with consistency certifications~~ required ~~to be submitted to the Commission in accordance with Section~~ 13660.3 ~~of these regulations~~,*detailed descriptions, consistency certification*determinations,*findings and assessments and other supporting data for other OCS-related activities, which require a federal license or permit but are not required to be described in detail in OCS plans by the Secretary of the Interior (e.g., Corps of Engineer permits for the placement of structures on the OCS and for dredging and the transportation of dredged material, Environmental Protection Agency air and water quality permits for offshore operations and onshore support and processing facilities, or the other permits listed in Section 13660.1 of these regulations). Where consistency certification*~~determinations~~*and related findings and assessments are made for activities for all required Federal per[illegible] connected with an OCS plan, the applicant shall so state and conso[illegible]ed consistency review for these activities will take place at the same time and under the same procedures as review of activities required to be described in detail in OCS plans (Sections 13660.1-.13 of these Regulations).

(b) If consistency certifications*~~determinations~~*and related assessments and findings for all OCS related Federal permit activities are not included with an OCS plan and consistency certification*~~determination,~~* the applicant shall state which Federal permit activities have not been included. *~~The Commission will review those permit activities which are not~~

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~~included separately~~.* The final decision of the Commission*~~for consistency~~ determinations of OCS plan activities*shall state which Federal permit activities have not been included and*~~which~~*therefore must be reviewed separately.

(c) The applicant and the Coastal Commission shall comply with Sections 13660-13660.13 of these regulations in processing consistency certification*determi~~nations~~*which have not been included with OCS plans, except that:

(1) As soon as possible, but at least 10 days pior to submission of an application for a Federal permit, the applicant shall consult with the Executive Director concerning OCS-related Federal license or permit activities.

(2) An environmental report as described by 30 CFR 250.34-3(a) and 3(b) need not be submitted, if one which covered the subject permit activity was previously submitted under Section 13660.3 of these regulations, or if the Executive Director is satisfied that the applicant has provided sufficient information concerning the environmental effects of the permit activity to adequately review the project as if it were a coastal permit under the CCMP.

(3) Wherever there is a requirement to notify the USGS Area Supervisor, notification shall also be sent to the appropriate*chief of the*Federal permitting agency.

NOTE: Authority cited: State law: Section 30333, Public resources Code. Reference: Section 30008(c), Public Resources Code. Federal law: 15 CFR '.82.

13660.12. Associated Coastal Development Permits. Where a facility associated with an OCS plan requires a coastal development permit under the California Coastal Act (e.g. pipeline, marine terminal, onshore

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support and processing facilities, etc.), the applicant shall notify the Executive Director of the facility's relationship to the OCS plan at the time of submittal of the plan. Where an application for such a facility precedes submittal of the OCS plan to the Commission, the applicant shall notify the Executive Director that the facility is associated with a forthcoming OCS plan. If the Executive Director determines that a consolidated review of the applicant's consistency certification*~~determination~~*and application for a coastal development permit is necessary for complete and proper consideration of the matter, he shall recommend such*~~direct~~*consideration*~~of such permit application by the State Coastal Commission pursuant to §30333.5 of the Coastal Act.~~*

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008(c), Public Resources Code. Federal law: 15 CFR 930.82

13660.13. Monitoring of Federal Permits. Copies of Federal license and permit applications for activities described in detail in an OCS plan, as well as for OCS-related activities, which have received Commission concurrence and which have been requested in the final Commission decision, shall be sent by the applicant to the Executive Director to allow the Commission to monitor the activities.

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State of California MAL-MAU-1-08

Memorandum

To :

Tony Perez

Date : February 17, 1982

File No.:

Proposed Regulations
Consistency and LCP Override Pr[illegible]

From : Linda L. Breeden, Energy Counsel
California Coastal Commission

Enclosed is a set of notice of proposed changes to regulations for publication in the Notice Register. I have enclosed an extra notice. Please stamp it and return to me in the enlosed envelope with the date of publication on it for our records.

Attached to each notice is the statement of reasons which are also required to be submitted to your office. I was advised by an attorney at your office that the 1981 revisions to the OAL law now require us to submit a copy of the regulations with the notice. One copy of the regulations is submitted as I was instructed to do so. Please send a copy of the regulations to the appropriate person. Note that the regulations contain lined out deletions. The Wang machine which this office uses is not capable of deleting.

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CALIFORNIA COASTAL COMMISSION
631 Howard Street, San Francisco 94105 — (415) 543-8555

I, Diane O'Flynn, on February 17, 1982, sent the following items to Mr. Tony Perez at the Office of Administrative Law, 1414 "K" street, Suite 600, Sacramento, CA 95814:

(1) 2 copies of cover memo, one copy to be stamped with the date of publication and returned to Linda Breeden in the enclosed self-addressed envelope;

(2) 5 copies of notice of Proposed Changes in Commission review of OCS Plans, and hearing date;

(3) 5 copies of Statement of Reasons, Chapters 10, 11, and 1, (Federal Consistency, Energy Facilities, and General Provisions respectively).

Signed

Diane O'Flynn

Diane O'Flynn, 2/17/82

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CALIFORNIA COASTAL COMMISSION
631 Howard Street, San Francisco 94105 — (415) 543-8555

February 16, 1982

NOTICE

Proposed Changes in the Regulations of the California Coastal Commission dealing with Review of OCS Plans, and Adoption of Local Coastal Program Procedures for Energy Facilities and Public Works Projects and Deletion of erroneous references in the Definition of Major Public Works.

NOTICE: The California Coastal Commission proposes to adopt amendments to its regulations which explain and implement the requirements of the California Coastal Act of 1976, as amended, Public Resources Code Section 30000 and following.

INFORMATIVE SUMMARY

1. The proposed amendments to OCS Plan regulations found in 14 California Administrative Code Section 13660 are administrative or procedural, deleting references to the Regional Commissions and reflecting other organizational changes. A new section is proposed allowing consent calendar procedures for these projects. This procedure should expedite review. The term "California Coastal Management Program" is defined. The regulations implement Section 30330 which designates the Commission as the state coastal management agency for the federal Coastal Zone Management Act 16 U.S.C. Section 1451 and 15 CFR Part 930.

2. Section 30515 allows applicants of public works or energy facility developments to petition the Commission for Local Coastal Program amendments, subject to certain threshold requirements. For all other types of developments, local governments must first approve such developments. The regulations describe how such applications will be processed, relying as much as possible on existing procedures. The regulations also implement Section 30330 and the Commission's national interest responsibilities pursuant to the Coastal Zone Management Act 16 USC 1451 and 15 CRF Part 923.

3. The present regulation defining "major public works", Section 13012, incorrectly limits such projects to geographic areas described in P.R.C. Section 30601(1) and (2). This is expressly inconsistent with Section 30601 (3) which does not put a locational limit on such projects. It is proposed to delete the reference to Section 30601 (1) and (2). Correction of this error will assure that both public works projects and energy projects, regardless of location, may take advantage of the Local Coastal Program amendment procedures of paragraph 2 above.

HEARING:

The Coastal Commission will conduct one hearing on these proposed amendments. The hearing will be held as follows:

March 16-19, 1982
Amfac Hotel, near L.A. Airport
Los Angeles, California

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The specific date of the hearings will be available ten days prior to the scheduled meeting and will be noticed on the Commission Meeting Notice. Any person interested may present statements or arguments relevant to the proposed amendments and adoption, orally or in writing, at the hearings. If for some reason the public hearing is not held, any interested person may request a public hearing no later than 15 days before the close of the comment period. Written comments may be submitted until April 10, 1982.

ADDITIONAL INFORMATION:

The Coastal Commission has prepared a Statement of Reasons providing an explanation of the purpose and justification for these proposed amendments and adoption. These amendments are expected to result in no increased costs to local governments, and there may be a slight decrease in costs as a result of the removal of one level of review and decreased time for review by the California Coastal Commission.

AUTHORITY:

Authority for the Coastal Commission to adopt these amendments and new regulations is provided in Public Resources Code Sections 30333, 30501. These amendments and new regulations would implement the requirements of Public Resources Code, Sections 30515, 30333, and the federal laws and regulations noted above.

CONTACT:

Any inquiries concerning these proposed amendments may be directed to Linda Breeden, Energy Counsel at (415) 543-8555.

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Statement of Reasons

Chapter 10

Federal Consistency

Purpose

A statement of reasons and statement of review completion was previously submitted to OAL. Due to 1981 amendments to OAL's authorizing legislation, this agency is submitting new statements of reasons and review completion. However, material from the prior submissions will not be repeated and are incorporated herein by this reference. Chapter 10 implements the federal Coastal Zone Management Act, 16 USC 1451 et seq. The Coastal Commission is the federally designated coastal management agency responsible for implementation of California's coastal management program (CCMP). Under federal law, the Commission reviews federal activities and federally licensed activities for "consistency" with the CCMP. One type of activity it reviews are OCS plans of exploration and development, 16 USC Sec. 1456(c)(3)(B). Regulations describe procedures for reviewing plans in accordance with federal law, federal regulations codified in 15 CFR Part 930, and the CCMP. Since the Commission's consistency authority is analogous, but not identical, to its permit authority, separate procedural regulations are necessary. The amendments proposed herein are minor in nature, seeking to conform to new OAL requirements for citations, and to federal regulations on consistency. The Commission derives its authority over these projects from federal, not state, law.

Title

The title of the Chapter was revised to more closely correspond to the language of the federal law. Under federal law and regulations, federal agencies make "consistency determinations", whereas applicants for federal licenses or permits make "consistency certifications". Since this Chapter refers to applicants, the term "determination" was corrected to now become "certification". This change was made to every section where the word "determination" occurred.

13660. Definitions

In subsection (a), the last phrase is proposed to be deleted because it is redundant. A new subsection (f) will be added which defines "California Coastal Management Program". The term is used throughout the Chapter and is confusing without a definition. Citations to federal law and regulations have been added to all sections to comply with OAL requirements.

13660.1 Preliminary Consultation

Redundant phrases have been deleted. The regulation will be clarified to indicate that consultation should take place at the state office. The state office is responsible for the OCS program in the reorganization of the Commission.

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13660.3 Submission of Consistency Certification

Clarifying, editorial changes are proposed.

13660.4 Staff Summary, Recommendation and Hearing Notice

Changes to reflect amendments to the Coastal Act (e.g., 49 days for a public hearing) are proposed. Also, reorganization of the Commission necessitates other minor revisions.

13660.7 Regional Commission Role

This section will be repealed since regional Commissions no longer exist. A new "Consent Calendar Procedure" section will be added to assure OCS applicants of speedy Commission action.

13660.8 Final Commission Decision

Based on comments received last year, Section (b)(1) will be changed to quote exactly the federal law. Apparently, some commentators objected to the paraphrased version of the federal law. The Commission is aware of OAL's objection to regulations which quote laws and is therefore somewhat caught in the middle. However, due to the relative unavailability of federal legislation to applicants and staff, it is necessary to state the basis for decision making. A few editorial changes are also proposed.

13660.9 Appeals Procedure

Clarification of the first sentence is proposed to include more information about federal regulations. Commission actions under Chapter 10 are appealable to the Department of Commerce.

13660.11 Multiple Permit Review

To comply with OAL mandates, deletion of repetitive phrases are proposed. No substantive changes are proposed.

13660.12 Associated Coastal Development Permits

This section currently deals with the relationship of a state Commission consistency certification to an associated permit under consideration by a regional Commission. Since the regional Commissions no longer exist, and the Commission handles all permits, revisions to the regulation are needed.

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STATEMENT OF REASONS

CHAPTER 11

Energy Facilities

Subchapter 2. Certified Local Coastal Program "Override" Procedures

Introduction:

Section 30515 provides special procedures allowing applicants to petition the Commission for Local Coastal Program amendments. The section only applies to public works facilities and energy facilities. For all other types of facilities, local government submits Local Coastal Program amendments to the Commission. The section is also extremely important as an implementation mechanism for the Commission's national interest responsibilities pursuant to the Coastal Zone Management Act (CZMA), 16 USC Section 1451 et seq. and the approved California Coastal Management Program (CCMP).

13666 Applicability

This section indicates that the so-called "override" procedures of Section 30515 are applicable to energy facilities and public works facilities. The entire Chapter also implements the national interest in energy facility planning and siting necessary to carry out the Commission's approved Coastal Management Program ("CCMP") pursuant to the Coastal Zone Management Act of 1972 ("CZMA" 16 USC 1451). There are frequent references in the federal approval of the CCMP to the importance of implementation of Section 30515. The Commission relies on the CCMP, CZMA, and Coastal Act in proposing this regulation. A copy of these documents has previously been sent to OAL and is available upon request. The section describes the two eligibility requirements for State Coastal Commission "override" of local decisionmaking. It also specifically provides that developments that are not subject to the "override" procedures shall follow Local Coastal Program amendment procedures.

13666.1 Information Requirements for Preliminary Determination

This section describes the type of information that may be submitted to the Executive Director to determine if the proposed development is subject to this subchapter. This application may be submitted prior to local government review, if the applicant, at his option, desires local government to be informed at the outset that the application is subject to "override" provisions. It is anticipated that applicants would chose to exercise this option, if they anticipate local opposition to the development.

13666.2 Submittal to Local Government

Subsection (a) describes the procedures for submittal of an amendment application if the applicant has requested a preliminary determination. The application is to be submitted first to the local government whose decision is subject to the factual findings of this subchapter. If the local government fails to amend the Local Coastal Program within 90 days, the applicant may file an amendment request with the Commission. Ninety days is an appropriate time period because local governments submit local coastal program amendments three times a year. This time period is intended to allow the applications to be considered along with local governments' existing local procedures.

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Subsection (b) describes the procedures for review of amendment applications, if the applicant has not elected to request a preliminary determination. Generally speaking, this section would apply if the amendment were first denied by local government and then appealed to the Commission. It could also apply to appeals of amendment approvals, if the applicant were dissatisfied with the conditions of approval. In either event, the subsection only applies to appeals.

13666.3 Commission Review

This section assures commission consultation with the affected local government as required by Section 30515 and indicates the applicable provisions of the Chapter 5 regulations and Local Coastal Program regulations. Citation to the existing regulations avoids duplication of procedural and substantive regulations.

13666.4 Required Findings

The required findings assure that the Commission decision will be supported by an analysis of factual matters to support the legal conclusions specified in Section 30515.

CHAPTER 1

General Provisions

13012. Major Public Works

This section defines major public works but includes an erroneous reference to P.R.C. Section 30601(1) and (2) that is proposed to be deleted.

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CHAPTER 11: ENERGY FACILITIES AND LCP "OVERRIDE" PROCEDURES

SUBCHAPTER 1. (RESERVED)

SUBCHAPTER 2. CERTIFIED LOCAL COASTAL PROGRAM (LCP) AMENDMENT "OVERRIDE" PROCEDURES

13666. Applicability

These procedures are applicable to persons authorized to undertake a public works project or proposing energy facility development that requires LCP amendments provided that the development meets the following two requirements:

(1) unanticipated by the person proposing the development at the time the Local Coastal Program was before the Commission for certification

(2) meets the public needs of an area greater than that included in the certified Local Coastal Program

All other developments requiring an amendment to the certified Local Coastal Program shall follow the Local Coastal Program amendment procedures of the affected local government and the Commission.

13666.1. Information Requirements for Preliminary Determination

A person desiring review according to this subchapter may first submit an LCP amendment application (following the requirements of the affected local government) to the Executive Director with sufficient information setting forth the reasons for the amendment with particular emphasis on the applicability requirements as specified in Section 13666, and how it conforms with the policies of Chapter 3. The Executive Director shall, within 30 days, review the Local Coastal Program file and the projected scope of this subchapter. A determination of the Executive Director is final and shall be forwarded to the affected local government and the person desiring review.

13666.2. Submittal to Local Government

(a) If the Executive Director has preliminarily determined that the development is subject to this subchapter, the application shall first be submitted to the affected local government for a Local Coastal Program amendment according to applicable requirements. The local government shall make its determination based on factual findings and reasoning supporting the conclusions of law set forth in this subchapter. If the local government fails to amend the Local Coastal Program within 90 days of submittal, the person submitting such an amendment may file a request for an amendment with the Commission.

(b) If the applicant has not requested a preliminary determination, prior to submittal of an amendment application to the local government, he may nevertheless request the Commission to consider the application through an appeal from a final local government decision as subject to the override provisions. The appeal from the local government's decision shall follow local coastal program regulations of the affected local government and the Commission and include the information requirements of this subchapter in order to advise the Commission that in the applicant's opinion, the development is subject to Section 30515.

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13666.3 Commission Review

Commission review shall be undertaken only after consultation with the affected local government and with the exception of the local government resolution, review shall be conducted according to the Local Coastal Program regulations.

13666.4 Required Findings

(a) If the recommendation is for Commission approval as proposed or modified (i.e., conditioned), the recommendation shall be accompanied by specific factual findings and reasoning which, after a careful balancing of social, economic, and environmental effects, supports the following conclusions:

(1) development meets an identified public need of a geologic area greater than that included within the certified Local Coastal Program.

(2) development conforms with and is adequate to carry out the policies of Chapter 3.

(3) if significant adverse environmental impacts have been identified, reasonable alternatives have been required and mitigation measures included that substantially lessen any significant adverse environmental impact so that there is no feasible less environmentally damaging way to meet the public need. If the development will have no significant adverse environmental impact, findings shall be included which support that conclusion.

(4) disapproval would adversely affect the public welfare as identified in the findings, declarations, and general provisions of the Coastal Act.

(b) If the recommendation is for Commission denial, the recommendation shall state specifically the grounds for denial, based upon the findings and relevant facts which after a careful balancing of social economic and environmental effects support the conclusions listed in Section 13666.4.

CHAPTER 1
GENERAL PROVISIONS

13012. Major Public Works. "Major public works" means any public works *~~located within an area l~~isted ~~in Public Resources Code, Section 30601(1) and (2),~~* that costs more than fifty thousand dollars ($50,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Public Resources Code Sections 30610, 30610.5, 30611, or 30614.

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Chapter 10. Federal Consistency*~~Determination~~*
Subchapter 1. Commission Procedures for Consistency
Certifications*~~Determinations~~*for Outer Continental Shelf
(OCS) Exploration, Development or Production
Plans and for OCS Related Federal Permits.

13660. Definitions. (a) The term "applicant" means any individual, corporation, partnership, association, or other entity organized or existing under the laws of any State, the Federal government, any State, regional or local government, or any entity of such Federal, State, regional or local government, who submits to the USGS Area Supervisor (or other designee of the Secretary of Interior) after August 31, 1978, an OCS Plan*~~which describes in detail activities requiring a Federal license or permit~~.*

(b) The term "OCS plan" means any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act, as Amended, (43 U.S.C. §1331 et. seq.), and the regulations under that Act, which describes in detail activities requiring a Federal license or permit.

(c) The term "USGS Area Supervisor" means the Pacific Area Oil and Gas Supervisor, United States Geological Survey, Department of the Interior.

(d) The term "Assistant Administrator" means the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, Department of Commerce.

(e) The term "Executive Director" means the Executive Director of the California Coastal Commission.

(f) The term "California Coastal*~~Zone~~*Management Program" (CCMP) means the program approved by the Department of Commerce pursuant to the Coastal Zone Management Act (16 USC Section 1451 et.seq.).

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NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference cited: Section 30008~~(c)~~, Public Resources Code. Federal law: 16 USC Section 1451 et. seq.; 15 CFR Part 930 et. seq. as adopted June 25, 1979, 44 FR 37143.

13660.1. Preliminary Consultation. (a) As soon as possible, but at least 10 days prior to submission to the USGS Area Supervisor, of any plan* ~~required to be submitted under the Outer Continental Shelf Lands Act, as amended, (43 USC 1331 et seq.)~~*for the exploration of areas leased under the Outer Continental Shelf Lands *~~that~~*Act, and at least 30 days prior to submission of plans for the development or production of areas leased under that Act, any applicant wishing to undertake such activities in areas adjacent to California waters shall consult with the Executive Director at the state office concerning all the activities required to be described in detail in the OCS plan affecting the land or water uses in the coastal zone*~~which affect land and water uses.~~*

This shall include, at minimum, activities requiring the following federal approvals:

USGS - Department of the Interior

- Approval of offshore drilling operations
- Approval of design plans for the installation of platforms
- Approval of gathe; ɜ and flow lines

The following OCS related Federal license or permit activities are encouraged to be included, if they will be required in connection with the OCS activity.

Department of Defense - U.S. Army Corps of Engineers

- Permits and licenses required under Sections 9 and 10 of the Rivers Harbors Act of 1899
- Permits and licenses required under Section 103 of the Marine

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Protection, Research and Sanctuaries Act of 1972

- Permits and licenses required under Section 404 of the Federal Water Pollution Control Act of 1972 and amendments
- Permits for artificial islands and fixed structures located on the Outer Continental Shelf (Rivers and Harbors Act of 1899 as extended by 43 U.S.C. 1333(f)

Department of the Interior - Bureau of Land Management - USGS

- Permits and licenses required for drilling and mining on public lands (BLM)
- Permits for pipeline rights-of-way on the Outer Continental Shelf
- Permits and licenses for rights-of-way on public lands

Environmental Protection Agency

- Permits and licenses required under Sections 402 and 405 of the Federal Water Pollution Control Act of 1972 and amendments
- Permits and applications for reclassification of land areas under regulations for the prevention of significant deterioration (PSD) of air quality

Department of Transportation - U.S. Coast Guard

- Permits for construction of bridges under 33 USC 401, 491-507 and 525-534
- Permits for deepwater ports under the Deepwater Port Act (P.L.93-627)

Federal Energy Regulatory Commission

- Certifications required for interstate gas pipelines
- Permits or licenses for construction and operation of facilities needed to import, export or transship natural gas or electrical energy

Any other OCS related Federal license or permit activities which are not listed above are also encouraged to be included, if they will be required in connection with the OCS activity.

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(b) The Executive Director shall provide the applicant with a copy of the California Coastal Management Plan ("CCMP") upon request.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008(c), Public Resources Code. Federal law: 15 CFR 930.75, 930.82, 930.64, 930.77.

13660.2. [RESERVED]

13660.3. Submission of Consistency Certification. (a) The applicant shall submit to the USGS Area Supervisor who in turn shall submit to the Executive Director: the OCS plan, with accompanying consistency certification and supporting information for all activities required to be described in detail in the plan and identified in Section 13360.1(a) of these regulations, and the environmental report as soon as it is approved by the USGS Area Supervisor pursuant to 30 CFR 250.34-1 for exploration plans or 30 CFR 250.34-2 for development and production plans.

(b) The consistency certification*for all activities described in detail in the OCS plan as required by Section 13660.3(a) above*shall be in the following form:

> The proposed activities described in detail in this plan comply with California's approved coastal management program and will be conducted in a manner consistent with such program.

(c) The applicant shall also include the following supporting information:

(1) a brief assessment relating the probable coastal zone effects of each of the enumerated activities and their associated facilities to the relevant elements of the program policies of the CCMP; and

(2) a brief set of findings derived from the assessment indicating that each of the enumerated activities (e.g. drilling, platform

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placement) and its associated facilities (e.g. onshore support structures, offshore pipelines), and its primary effects (e.g. air, water, waste discharges, erosion, wetlands, beach access impacts) are consistent with the mandatory provisions of the CCMP.

(d) Upon request of the applicant, the California Coastal Commission staff will provide assistance in preparing the assessment and findings required in Section 13660.3(c)(1) and (2) of these regulations.

(e) The Executive Director may request in writing additional data and information from the applicant if he deems it necessary for a complete and proper review. Such a request shall not extend the date for commencement of Coastal Commission review; however, failure to submit the requested information could result in an objection to the applicant's consistency certification *~~determination~~*[See §13660.8(b)(4)]. The applicant shall comply with such request within 10 days of its receipt or shall indicate wthin 10 days reasons why the request cannot be complied with.

(f) When the OCS Plan submitted to the Executive Director by the USGS Area Supervisor has deleted confidential and prorietary information, the places where such information has been deleted and the general subject matter of the information shall be identified. Where the Executive Director determines that such confidential and proprietary information is necessary to adequately assess the coastal zone effects of the activities described in the OCS plan and therefore to make a reasoned decision on the consistency of such activities, such information shall be provided after the Executive Director has provided adequate assurance of confidentiality in accordance with the*~~provisions of the Outer Continental Shelf Lands Act, as amended, and the Freedom of Information Act, and their~~*applicable implementing federal regulations. The procedures specified in §13660.3(e)

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apply to the Executive Director's request for confidential and proprietary information.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008(c), Public Resources Code. Federal law: 15 CFR Sections, 930.77, 930.58 and 30 CFR Part 252.

13660.4. Staff Summary Recommendation, and Hearing Notice. After receipt of the OCS plan, environmental report, consistency certification* determination*and the accompanying findings and assessments and any other information which the Executive Director deems necessary, the Executive Director shall:

(a) Prepare a staff summary and recommendation of the applicant's findings and assessments and send the summary to the applicant, the Assistant Administrator, the USGS Area Supervisor, and other relevant Federal agencies,*~~the affected Regional Commissions~~,*local governments, state agencies, and other interested parties. If the vote on the certification is scheduled for a later meeting than the oral hearing on the staff summary, the Executive Director shall prepare a separate staff recommendation according to the requirements of Chapter 5, Article 12.

(b) Schedule a*State Coastal*Commission public hearing on the applicant's consistency certification*determination,*findings and assessments and the staff summary, and recommendation, giving appropriate notice to all interested parties, (as listed in §13660.4(a) above), with particular emphasis on informing citizens of the coastal area which will be affected pursuant to the permit regulations in Chapter 5 unless specifically changed herein. The Director shall endeavor, where possible, to schedule the public hearing in the affected region. The notice shall announce the availability for inspection of the applicant's consistency certificate an findings. The state and regional agencies responsible for

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air and water quality compliance shall be notified and provided the opportunity to present their agencies' positions before the Commission hearing. Such hearing shall be set for a regular Coastal Commission meeting not later than the 49th*42nd*day after receipt of the documents required by Section 13660.3. The Executive Director may, at his discretion, extend for an additional 30 days the 49-day*42-day*time period for a hearing. All public hearings shall be scheduled with a view toward allowing widespread public distribution of the information contained in the staff's summary and recommendation and toward allowing maximum public participation and attendance at the hearing particularly for the citizens of the affected area, while affording the applicant expeditious consideration of consistency certifications.*determinations.*

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008(c), and 30621, Public Resources Code. Federal law: 15 CFR 930.79, 930.84(a), 930.61(a), 930.63.

13660.5. Contents of Summary and Recommendation. The summary shall: (1) list the major activities listed in the OCS plan, for which a consistency certification*~~determination~~,*assessments and findings have been required, (2) discuss the effect of these activities and their associated facilities, or*and*their effects on land and water uses in the coastal zone, (3) discusss the consistency of such activities and related effects with the mandatory provisions of the CCMP. The summary shall also specifically list all other Federal permits for which consistency findings have not been enclosed and for which future consistency certification* determinations*will be required under Section 13660.11 of these regulations.

13660.6. Conduct of Hearings on Staff Recommendations on a Consistency Certification.*~~Determination~~.* The Commission shall ~~be*the~~

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final decision maker on consistency determinations and shall*conduct de novo hearings on consistency certifications*~~determinations~~*substantially in accordance with the applicable procedures for permit hearings set forth in ~~Sections 13057 through 13096, excluding*Sections 13071, 13085, and 13087 of these Regulations.~~* Chapter 5 of these regulations.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008(c), Public Resources Code. Federal law: 15 CFR 930.79 and CZMA.

13660.7. Consent Calendar Procedures. Consistency certifications at the discretion of the Executive Director may be included as a consent calendar item pursuant to Chapter 5, Article 15 of these regulations.

~~13660.7. Regional Commission Role. The affected Regional Commission(s) may wish to conduct hearings prior to the Commission hearing, and based on those hearings present testimony at the Commission hearing. The Regional Commission hearing panel may include State Commissioners. Upon written request by a Regional Executive Director, the Executive Director may extend for an additional 30 days the 42-day time period for its hearing required by Section 13660.4 in order to allow a full hearing at the Regional Commission level. Any Regional Commission hearings shall also be conducted substantially in accordance with Sections 13064-13096 of these regulations. The Regional Commission and State Commission shall attempt to hold a joint hearing where possible.~~

13660.8. Final Commission Decision. (a) The Commission shall issue a decision on whether the applicant's consistency certification complies with the CCMP; i.e., whether it "concurs" or "objects" to the applicant's consistency certification, at the earliest practicable time and in no event

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more than 6 months from the date of receipt of such consistency certification and required information from the USGS Area Supervisor (see Section 13660.3 of these regulations). If a Commission decision has not been reached within 3 months of such receipt, the Executive Director shall notify in writing the Assistant Administrator, the applicant, the USGS Area Supervisor, and the relevant Federal agencies of the status of review and the basis for further delay.

(b) A Commission decision which objects to an applicant's consistency certification for one or more of the activities described in detail in the OCS plan shall be accompanied by a statement indicating:

(1) the effect which the activity will have on coastal land or*and* water uses, in the coastal zone,

(2) how the activity is inconsistent with a mandatory provision of the CCMP,

(3) alternative measures or conditions (if they exist) which would make their proposed activity consistent with CCMP policies,

(4) if a decision to object is based upon grounds that the applicant has to*~~not~~*~~provide~~ information*~~required in Section~~ 13660.3~~-above, which has been~~*requested by the Executive Director, the type*nature*of*~~the~~*information requested and the necessity of that information for a consistency certification *determination*must be described, and

(5) the applicant's right of appeal to the Secretary of Commerce on the grounds that the activity is consistent with the objectives or purposes of the Coastal Zone Management Act or is necessary in the interest of national security.

(c) The Commission shall notify the applicant, the USGS Area

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Supervisor, the Assistant Administrator, and the relevant Federal agencies of its decision by sending a copy of its Final Decision to them.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008(c), Public Resources Code. Federal law: 15 CFR 930.79 and 15 CFR 930.64, 930.63 and CZMA.

13660.9. Appeals Procedure. Any applicant may file a notice of appeal of a Commission objection to a consistency certification within 30 days of receipt to the Secretary of Commercere according to the provisions of the Coastal Zone Management Act and the regulations contained in 15 CFR Par 930.120 et seq*Any applicant who appeals to the Secretary of Commerce a Commission objection to a consistency determination*The applicant shall send a copy of the notice of appeal and accompanying documents to the Executive Director.*of the Commission.* The Executive Director shall submit detailed comments to the Secretary of Commerce within 30 days of receipt of the appeal and transmit*send*copies of*such comments*to the applicant, the USGS Area Supervisor, and the relevant Federal agencies. Where the Commission meeting schedule allows sufficient time for discussion prior to the 30 day period, these comments shall be the subject of Commission discussion with opportunity for public comment. This procedure shall also be followed if the Secretary of Commerce pursues an independent review of the consistency of an OCS activity.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008(c), Public Resources Code. Federal law: 15 CFR 930.120-134.

13660.10. Required Amendments. Any amendment to an OCS plan which must be submitted as a result of Commission objection to consistency of an OCS activity shall be processed as if such amendment were a new plan; i.e., Sections 13660.1-.13 of these regulations apply, except that the Commission

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must make its decision within 3 months of receipt.

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008(c), Public resources Code. Federal law: 15 CFR Part 930.83 et seq.

13660.11. Multiple Permit Review. (a) Applicants are strongly encouraged to include with OCS plans ~~and*with consistency certifications~~ required to be submitted ~~to the Commission in accordance with Section~~ 13660.3 ~~of these regulations~~,*detailed descriptions, consistency certification*determinations,*findings and assessments and other supporting data for other OCS-related activities, which require a federal license or permit but are not required to be described in detail in OCS plans by the Secretary of the Interior (e.g., Corps of Engineer permits for the placement of structures on the OCS and for dredging and the transportation of dredged material, Environmental Protection Agency air and water quality permits for offshore operations and onshore support and processing facilities, or the other permits listed in Section 13660.1 of these regulations). Where consistency certification*~~determinations~~*and related findings and assessments are made for activities for all required Federal permits connected with an OCS plan, the applicant shall so state and consolidated consistency review for these activities will take place at the same time and under the same procedures as review of activities required to be described in detail in OCS plans (Sections 13660.1-.13 of these Regulations).

(b) If consistency certifications*~~determinations~~*and related assessments and findings for all OCS related Federal permit activities are not included with an OCS plan and consistency certification*~~determination,~~* the applicant shall state which Federal permit activities have not been included. *~~The Commission will review those permit activities which are not~~

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included ~~separately~~.* The final decision of the Commission*for-consistency determinations of OCS plan activities*shall state which Federal permit activities have not been included and*~~which~~*therefore must be reviewed separately.

(c) The applicant and the Coastal Commission shall comply with Sections 13660-13660.13 of these regulations in processing consistency certification*~~determinations~~*which have not been included with OCS plans, except that:

(1) As soon as possible, but at least 10 days pior to submission of an application for a Federal permit, the applicant shall consult with the Executive Director concerning OCS-related Federal license or permit activities.

(2) An environmental report as described by 30 CFR 250.34-3(a) and 3(b) need not be submitted, if one which covered the subject permit activity was previously submitted under Section 13660.3 of these regulations, or if the Executive Director is satisfied that the applicant has provided sufficient information concerning the environmental effects of the permit activity to adequately review the project as if it were a coastal permit under the CCMP.

(3) Wherever there is a requirement to notify the USGS Area Supervisor, notification shall also be sent to the appropriate*chief of the*Federal permitting agency.

NOTE: Authority cited: State law: Section 30333, Public resources Code. Reference: Section 30008(c), Public Resources Code. Federal law: 15 CFR 930.82.

13660.12. Associated Coastal Development Permits. Where a facility associated with an OCS plan requires a coastal development permit under the California Coastal Act (e.g. pipeline, marine terminal, onshore

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support and processing facilities, etc.), the applicant shall notify the Executive Director of the facility's relationship to the OCS plan at the time of submittal of the plan. Where an application for such a facility precedes submittal of the OCS plan to the Commission, the applicant shall notify the Executive Director that the facility is associated with a forthcoming OCS plan. If the Executive Director determines that a consolidated review of the applicant's consistency certification*~~determination~~*and application for a coastal development permit is necessary for complete and proper consideration of the matter, he shall recommend such*~~direct~~*consideration*of ~~such permit application by the State Coastal Commission pursuant to §30333.5 of the Coastal Act~~.*

NOTE: Authority cited: State law: Section 30333, Public Resources Code. Reference: Section 30008(c), Public Resources Code. Federal law: 15 CFR 930.82

13660.13. Monitoring of Federal Permits. Copies of Federal license and permit applications for activities described in detail in an OCS plan, as well as for OCS-related activities, which have received Commission concurrence and which have been requested in the final Commission decision, shall be sent by the applicant to the Executive Director to allow the Commission to monitor the activities.

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CHAPTER 11: ENERGY FACILITIES AND LCP "OVERRIDE" PROCEDURES

SUBCHAPTER 1. (RESERVED)

SUBCHAPTER 2. CERTIFIED LOCAL COASTAL PROGRAM (LCP) AMENDMENT "OVERRIDE" PROCEDURES

13666. Applicability

These procedures are applicable to persons authorized to undertake a public works project or proposing energy facility development that requires LCP amendments provided that the development meets the following two requirements:

(1) unanticipated by the person proposing the development at the time the Local Coastal Program was before the Commission for certification

(2) meets the public needs of an area greater than that included in the certified Local Coastal Program

All other developments requiring an amendment to the certified Local Coastal Program shall follow the Local Coastal Program amendment procedures of the affected local government and the Commission.

13666.1. Information Requirements for Preliminary Determination

A person desiring review according to this subchapter may first submit an LCP amendment application (following the requirements of the affected local government) to the Executive Director with sufficient information setting forth the reasons for the amendment with particular emphasis on the applicability requirements as specified in Section 13666, and how it conforms with the policies of Chapter 3. The Executive Director shall, within 30 days, review the Local Coastal Program file and the projected scope of this subchapter. A determination of the Executive Director is final and shall be forwarded to the affected local government and the person desiring review.

13666.2. Submittal to Local Government

(a) If the Executive Director has preliminarily determined that the development is subject to this subchapter, the application shall first be submitted to the affected local government for a Local Coastal Program amendment according to applicable requirements. The local government shall make its determination based on factual findings and reasonin[illegible]orting the conclusions of law set forth in this subchapter. If the local governme[illegible]ls to amend the Local Coastal Program within 90 days of submittal, the person s[illegible]ing such an amendment may file a request for an amendment with the Commissi[illegible]

(b[illegible] f the applicant has not requested a preliminary determination, prior to submitta[illegible]n amendment application to the local government, he may nevertheless request t[illegible]mission to consider the application through an appeal from a final local governme[illegible] subject to the override provisions. The appeal from the local government's [illegible] shall follow local coastal program regulations of the affected local govern[illegible]d the Commission and include the information requirements of this sub[illegible]r to advise the Commission that in the applicant's opinion, the development is subject to Section 30515.

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13666.3 Commission Review

Commission review shall be undertaken only after consultation with the affected local government and with the exception of the local government resolution, review shall be conducted according to the Local Coastal Program regulations.

13666.4 Required Findings

(a) If the recommendation is for Commission approval as proposed or modified (i.e., conditioned), the recommendation shall be accompanied by specific factual findings and reasoning which, after a careful balancing of social, economic, and environmental effects, supports the following conclusions:

(1) development meets an identified public need of a geologic area greater than that included within the certified Local Coastal Program.

(2) development conforms with and is adequate to carry out the policies of Chapter 3.

(3) if significant adverse environmental impacts have been identified, reasonable alternatives have been required and mitigation measures included that substantially lessen any significant adverse environmental impact so that there is no feasible less environmentally damaging way to meet the public need. If the development will have no significant adverse environmental impact, findings shall be included which support that conclusion.

(4) disapproval would adversely affect the public welfare as identified in the findings, declarations, and general provisions of the Coastal Act.

(b) If the recommendation is for Commission denial, the recommendation shall state specifically the grounds for denial, based upon the findings and relevant facts which after a careful balancing of social economic and environmental effects support the conclusions listed in Section 13666.4.

CHAPTER 1
GENERAL PROVISIONS

13012. Major Public Works. "Major public works" means any public works ~~*located within an area listed in Public Resources Code, Section 30601(1) and (2),*~~ that costs more than fifty thousand dollars ($50,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Public Resources Code Sections 30610,30610.5, 30611, or 30624.

Click here for Exhibit 10a (continued)

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