



## 5.0 IMPLEMENTATION

This chapter presents the procedures for implementing State Parks Pismo State Beach and Oceano Dunes SVRA PWP. It includes the process for Coastal Commission (Commission) review and approval of the PWP and the subsequent analysis and approval of specific and small development projects, including:

- Oso Flaco Improvement Project;
- Park Corporation Yard Improvement Project;
- Oceano Campground Infrastructure Improvement Project;
- Pier and Grand Avenue Entrances and Lifeguard Towers Project;
- North Beach Campground Facility Improvement Project;
- Butterfly Grove Public Access Project;
- Pismo State Beach Boardwalk Project;
- Phillips 66/Southern Entrance Project (conceptual);
- Other Small Development Projects.

This chapter also presents administrative procedures for efficiently implementing operational projects or activities that constitute development under the Coastal Act and are minor in nature and required for ongoing repair and maintenance of park facilities.

This chapter is divided into nine sections, as follows:

- Section 5.1 -- Authority for Coastal Commission review and approval of the PWP and subsequent review and approval of a development project contained in the certified plan.
- Section 5.2 -- General provisions and supplemental reports for review and approval of projects included in the PWP, including procedures to notify interested parties of impending development on State Parks property.
- Section 5.3 -- Coastal Commission's areas of responsibility regarding the PWP project review process.
- Section 5.4 -- Specific development excluded from notice of impending development review procedures.
- Section 5.5 -- Determining the effective date for PWP project authorizations.
- Section 5.6 -- Areas for which the Coastal Commission retains direct development review jurisdiction.
- Section 5.7 -- Post-project authorization monitoring program.
- Section 5.8 -- Procedures for emergency development authorizations.
- Section 5.9 -- PWP amendment procedures.



## 5.1 Authority and Procedures for Coastal Commission Review and Approval

Coastal Act Section 30605 provides that a public works plan can be submitted to the Coastal Commission as an alternative to project-by-project review and that any subsequent review by the Commission of a specific project contained in the PWP shall be limited to imposing reasonable terms and conditions consistent with Sections 30607 and 30607.1. Coastal Act Section 30606 further provides that once the PWP is approved, subsequent projects require a notice of consistency with the certified PWP (Notice of Impending Development or NOID) to be provided to the Coastal Commission, other state agencies and other interested persons, organizations, and governmental agencies.

## 5.2 General Provisions and Supplemental Reports for any Specific Project Contained in the Certified PWP

This section defines the review procedures for any specific project contained in the certified PWP.

### 5.2.1 Notice of Impending Development

At least 30 working days before beginning construction on any specific project included in the PWP, the State Parks District Superintendent (District Superintendent) shall send via first-class mail a written Notice of Impending Development (NOID) to the following persons, parties and agencies informing them of State Parks' decision:

- a. The Executive Director of the Coastal Commission (Executive Director);
- b. The Director of Planning at San Luis Obispo County, Cities of Pismo Beach or Grover Beach, as applicable, depending on the location of the project;
- c. Owners of record of each property within 100 feet (excluding road rights-of-way) of the proposed project(s);
- d. Persons residing on properties located within 100 feet (excluding road rights-of-way) of the proposed project(s);
- e. The manager of businesses operated at the Park by an entity other than State Parks (e.g., concessionaires), as applicable;
- f. All other persons, parties, and agencies who have requested in writing to receive such notice, either for any project that is the subject of the notice or for all PWP projects;
- g. All parties consulted with under Section 5.2.2 (d), below; and
- h. Persons, parties, and agencies that are known by State Parks to be interested in any specific project that is the subject of the notice (e.g., persons, parties, and agencies that submitted testimony or other comments during the public review process for the PWP and provided contact information for such further notice).

#### 5.2.1.1 Contents of Notice of Impending Development

The NOID shall be titled as such and shall, at a minimum, include the following information regarding the PWP authorization:



- a. Description of the project(s), including the size, type, intensity and location of improvements as well as identifying the custodian of the public record, provided that the description may be incorporated by reference to the extent contained in the PWP, and supporting information as identified in Section 5.2.1.2, below;
- b. The anticipated date of commencement of construction of the project(s);
- c. The District contact person(s) or designated Project Manager and her/his contact information;
- d. A list of recipients of the NOID;
- e. For the Executive Director of the Coastal Commission only, noticing materials for the NOID shall be submitted consistent with California Code Regulations, Title 14, Section 13054):
  - 1 A list with names and addresses of, and stamped envelopes for, adjacent landowners and residents, and other interested persons, including the following:
    - a) The addresses of all residences, including each residence within an apartment or condominium complex, located within one hundred (100) feet (not including roads) of the perimeter of the parcel of real property of record on which the development is proposed,
    - b) The addresses of all owners of parcels of real property of record located within one hundred (100) feet (not including roads) of the perimeter of the parcel of real property of record on which the development is proposed, based upon the most recent equalized assessment roll, and,
    - c) The names and addresses or e-mail addresses of all persons known to be interested in the NOID, including those persons who testified at or submitted written comments for the local hearing(s).
    - d) This list shall be part of the public record maintained by the Coastal Commission for the application.
  - 2 State Parks shall also provide the Coastal Commission with stamped envelopes for all addresses on the list prepared pursuant to Section 5.2.1.1.e.1 above. Separate stamped envelopes shall be addressed to “owner,” “occupant,” or the name of the interested person, as applicable. The applicant shall also place a legend on the front of each envelope including words to the effect of “Important. Public Hearing Notice.” The Executive Director shall provide an appropriate stamp for the use of State Parks in the Coastal Commission office. The legend shall be legible and of sufficient size to be reasonably noted by the recipient of the envelope. The Executive Director may waive this requirement for addresses identified under Section 5.2.1.1.e.1 above and may require that some other suitable form of notice be provided by State Parks to those interested persons pursuant to California Code Regulations, Title 14, Section 13054, Section 13063(b), including providing substitute notice in one or more newspapers of general circulation in the area of the project for the written mailed notice if the Executive Director determines:



- a) It is reasonable to expect adequate or better notice to interested parties through publication; and
  - b) Written notice to individuals would be unreasonably burdensome to the applicant in view of the overall cost and type of project involved. A statement of reasons supporting the executive director's determination to direct the applicant to substitute newspaper notice shall be placed in the file.
- 3 If at State Park's request, the public hearing on the NOID is postponed or continued after notice of the hearing has been mailed, State Parks shall provide an additional set of stamped, addressed envelopes that meet the requirements of this Section. The additional set of stamped, addressed envelopes shall be submitted within ten days of the Coastal Commission's decision to postpone or continue the hearing.
- 4 Evidence that the NOID has been posted pursuant to the parameters of Section 5.2.1.3.

### **5.2.1.2 Supporting Information for the Notice of Impending Development**

Supporting information sufficient to allow the Coastal Commission to determine whether the project is consistent with the certified PWP shall accompany the NOID mailed to the Executive Director and to persons, parties, and/or agencies requesting such information. At a minimum, the supporting information shall include:

- a. The Project Report (see Section 5.2.2 below for detail), updated to include any changes or additions made in the course of review by State Parks; provided, that copies of lengthy and/or oversized studies, reports, and technical materials included as part of the Project Report shall be provided only to the Executive Director and to interested persons, parties, and agencies that specifically request these materials;
- b. Any final authorization documents from State Parks (e.g., resolutions, minute orders, certifications, etc.) not included in the Project Report;
- c. A separate document that identifies all project conditions and explains how compliance will be achieved and measured for each; and,
- d. Copies of all correspondence received regarding the PWP project subject to the NOID.

### **5.2.1.3 Posting Requirements for Notice of Impending Development**

The District Superintendent shall post the NOID in conspicuous locations at the project site no later than the date that the NOID is sent according to Section 5.2.1, Notice of Impending Development, and at least 30 working days before the commencement of construction. The notice shall be posted in a location easily read by the public, and as close as possible to the site of the proposed development, and shall indicate that a NOID for the proposed development has been submitted to the Coastal Commission. Such notice shall contain a general description of the nature of the proposed development. The Notices shall comply with the following requirements:

- a. Notices that are posted shall be visible and printed with black text/graphics on a brightly hued background (e.g., golden-rod yellow) using card-stock weight (at the least) paper. Notices shall be laminated or otherwise weatherproofed to be legible at all



times, and shall be at least 8½ inches by 11 inches in size, and no greater than four feet by eight feet in size.

- b. Notices that do not meet the criteria listed above, that otherwise become illegible, or that otherwise are not visible to pedestrians or disappear (for whatever reason) shall be replaced immediately. All notices shall remain posted until the effective date of authorized commencement of construction (per Section 5.2.1.1 (b)).

## **5.2.2 Preparation and Contents of a PWP Project Report**

State Parks will prepare a Project Report for each proposed development project. A Project Report shall include information specific to the project that the District deems necessary to satisfy the standards of the PWP. At a minimum, the Project Report shall consist of:

- a. A description of the proposed project(s), including size, type, intensity and location of improvements, including supporting site plans and elevations showing the proposed development as appropriate, provided that the description may be incorporated by reference to the extent contained in the PWP, and sufficient to determine that the project is included in the PWP;
- b. Any additional technical reports associated with the project(s) (i.e., biological reports, geotechnical reports, traffic analyses, etc.), including all supplemental reports and plans required by the PWP, to the extent not previously included with the PWP;
- c. Environmental documentation for the project(s) prepared under CEQA;
- d. The results of consultation with parties interested in, with jurisdiction over or affected by the project(s), including consultations with concerned public entities and agencies, to the extent not previously included with the PWP;
- e. A detailed discussion regarding the consistency of the project(s) with the provisions of the certified PWP and, if applicable with prior PWP authorizations or approvals by the Coastal Commission pursuant to the Coastal Act;
- f. All implementing mechanisms associated with the project(s) (including but not limited to condition monitoring reports, legal documents, etc.), to the extent not previously involved with the PWP;
- g. All correspondence received regarding the project(s), to the extent not already included with the PWP;
- h. Identification of the person responsible for ensuring that the project(s) shall be constructed per authorized specifications and that all terms and conditions of the authorization are met (Project Manager).

## **5.3 Coastal Commission Review of PWP Development Projects or any Portion Thereof**

The Coastal Commission shall review proposed development projects for consistency with the PWP in accordance with the procedures of this section.



### 5.3.1 Filing the Notice of Impending Development

Within five days of receipt of the NOID and all applicable supporting information as described in Section 5.2.1, Notice of Impending Development, the Executive Director shall review the submittal and shall determine whether additional information is necessary to evaluate if the proposed development project is consistent with the PWP, and if additional information is deemed necessary, shall request such information from the District Superintendent. The NOID shall be deemed filed as follows:

- a. If the Executive Director does not respond to the NOID or any subsequent information submittal within five days following its receipt, the Notice shall be deemed filed on the fifth day following the Executive Director's receipt of the Notice or the subsequent information submittal; or
- b. The Notice shall be deemed filed when the Executive Director has received all necessary information requested.

In the event of a disagreement concerning the need for or adequacy of additional information submitted to determine consistency with the certified PWP, the Executive Director or District Superintendent may submit the disagreement to the Coastal Commission for resolution. The Executive Director shall schedule the matter for hearing and resolution at the next Coastal Commission meeting or as soon after that as practicable but in no event later than sixty (60) calendar days after the Executive Director's receipt of written notice by the District Superintendent that State Parks disagrees that the Executive Director's request for information is necessary to determine if the proposed development is consistent with the certified PWP.

The matter shall be scheduled and heard by the Coastal Commission in accordance, to the extent practicable, with the procedures outlined in 14 California Code of Regulations Section 13056(d).

### 5.3.2 Coastal Commission Hearing Deadline

The Coastal Commission shall, within thirty (30) working days of filing of such notice, by a majority of the members present determine whether the proposed development is consistent with the certified PWP (California Code Regulations, Title 14, 13359.b). If the Commission fails to act upon the NOID on or before the Hearing Deadline, the proposed development project shall be deemed consistent with the certified PWP. The Hearing Deadline may be extended if, on or before the Hearing Deadline, the District Superintendent waives the State Parks' right to a hearing within thirty working days and the District Superintendent and Executive Director agree to an extension to a certain date.

### 5.3.3 Coastal Commission Review and Determination of Consistency with PWP

The Executive Director shall report in writing to the Coastal Commission the pendency of the proposed development project for which a NOID has been deemed filed. The Coastal Commission shall review the proposed development project at a scheduled public hearing before the Hearing Deadline.

If the Executive Director determines that one or more proposed development projects are de minimis with respect to the purposes and provisions of the PWP, they may be scheduled for Coastal Commission review at one public hearing during which all such items may be taken up as a single matter pursuant to procedures comparable to the





Commission’s consent calendar procedures (California Code Regulations, Title 14, Sections 13101 through 13103).

For all other proposed development projects, the Executive Director’s report to the Coastal Commission shall include a description sufficient to allow the Coastal Commission to understand the location, nature, and extent of the proposed development, and a discussion and recommendation regarding the consistency of the proposed development project with the certified PWP. On or before the Hearing Deadline the Coastal Commission, by a majority of its members present, may take one of the following actions on a proposed development project:

- a. Determine that the proposed development project is consistent with the certified PWP; or
- b. Determine that conditions are required to render the proposed development project consistent with the certified PWP and vote to impose any condition necessary to render the proposed development project consistent with the certified PWP.

Following Coastal Commission action, the Executive Director shall inform the District Superintendent of the Commission’s action and shall forward any associated conditions. If the Commission has voted to impose any condition necessary to render the project consistent with the PWP, development shall not be undertaken until the conditions have been incorporated into the project.

Coastal Commission review of a proposed development project shall be deemed complete on either:

- a. The date of a Commission action determining that the proposed development project is consistent with the PWP (with or without conditions to render it consistent); or
- b. If the Commission has failed to take action on the proposed development project by the Hearing Deadline, the date of the Hearing Deadline.

Upon completion of Coastal Commission review, State Parks may undertake the development project if any conditions imposed by the Commission to render the development consistent with the PWP have been incorporated into the project.

### **5.3.4 Amendment of Development Project Authorizations**

An application for an amendment to a certified public works plan shall be submitted to the executive director of the Commission and shall contain information which meets the requirements for submittal of public works plans in Sections 13353 and 13354 (California Code of Regulations, Title 14 Section 13365 Amendment of Public Works Plan); See Section 5.9, PWP Amendment Procedures).

Design modifications or changed site conditions (new or changed resources) that deviate from the scope or conditions documented in the approved PWP, but that do not result in significant new impacts to coastal resources will not require an amendment to the approved PWP. An amendment is not needed where the modifications or conditions result in impacts that are addressed with adopted PWP policies and implementation measures. The Coastal Commission may review and implement the change according to the NOID procedures included in this Chapter. Such improvements may include, but not be limited to, addition or modification of project features which are anticipated in the PWP scope of



improvements such as new code requirements, water quality treatment best management practices or aesthetic treatment features assuming such improvements do not result in coastal resource impacts not already addressed by the PWP policies and implementation measures.

#### **5.4 Development Excluded from Notice of Impending Development Procedures**

The categories of development identified in this section are excluded from the requirements of Sections 5.2 and 5.3 above and may be implemented as-needed pursuant to applicable protocols and standards, where applicable.

The categories of development covered in this section are as follows:

- a. Installation, testing, and placement in service or the replacement of, any necessary utility connection between an existing service facility and any development authorized pursuant to this Chapter, including utility hook up activities described in the document entitled “Repair, Maintenance and Utility Hook Up Exclusions from Permit Requirements,” adopted by the Coastal Commission on September 5, 1978, provided that any adverse impacts on coastal resources, including scenic resources, have been mitigated.
- b. Maintenance dredging of existing navigation channels or moving dredged material from the channels to an area outside the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers.
- c. Repair and maintenance of existing and approved boardwalks and trails to ensure safe continued public use of such facilities. Such repair and maintenance activities may include, but not be limited to, minor grading not exceeding 50 cu. yds., vegetation removal within or immediately adjacent to the object of repair/maintenance and/or within access routes necessary to carry out the repair/maintenance activity, and support structure repair/replacement, conducted on an as-needed basis to repair and maintain existing walking surfaces, as more fully described in Section 3.3.5.1, Boardwalks and Other Pedestrian Access Maintenance.
- d. Upgrades to existing and approved infrastructure and visitor-serving facilities, as-needed to meet facility and/or operational needs as described in Section 3.4.7.4, Special Projects, in PWP Volume 1 Chapter 3 including replacement and/or expansion of existing and approved facilities within the same location, providing that any expansion does not result in an increase of 10% or more of internal floor area or height, and providing that such expansion does not displace environmentally sensitive habitat area (wetlands, coastal streams, riparian vegetation, vegetation which is rare or endangered and sensitive dune vegetation) or public access amenities. Such upgrades may also include installation new facilities that are minor in nature, providing the facilities are located in previously developed or disturbed areas, are set back a minimum of 100 feet from environmentally sensitive habitat areas or otherwise maintain existing setbacks, and do not displace public access amenities.
- e. Repair, maintenance and operational activities not specified in categories a. through d. above and that do not result in an addition to, or enlargement or expansion of, the object of those repair and maintenance activities, including those specifically described in the document entitled “Repair, Maintenance and Utility Hook-up Exclusions from Permit Requirements,” adopted by the Coastal Commission on September 5, 1978, provided the activity does not include:





- 1 Any method of repair or maintenance of a seawall, revetment, bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves substantial alteration of the foundation of the structure being repaired or maintained; placement of rip-rap or other solid material on a beach or in coastal waters, streams, estuaries, or wetlands, or on a shoreline protective work; replacement of 20 percent or more of the materials of an existing structure with materials of a different kind; or the presence of mechanized construction equipment or construction materials on any sand area, bluff, or within 20 feet of coastal waters or streams. Ongoing repair, maintenance and operational activities specifically defined in Section 3.4.7.1 in PWP Volume 1 Chapter 3 are excluded from the NOID procedures defined in this PWP.
  - 2 Any repair or maintenance to facilities, structures, or work located in any sand area, within 50 feet of the edge of a coastal bluff, or within 20 feet of coastal waters or streams, that includes: (a) the placement or removal, whether temporary or permanent, of rip-rap, rocks, sand, other beach materials, or any other form of solid materials; and/or (b) the presence, whether temporary or permanent, of mechanized equipment or construction materials. Ongoing repair, maintenance and operational activities specifically defined in Section 3.4.7.1 in Chapter 3 and excluded from the NOID procedures defined in this PWP are excluded from the NOID procedures defined in this PWP.
  - 3 Any routine maintenance dredging or disposal of dredge materials that involves the dredging of 100,000 cubic yards or more within a twelve (12) month period; the placement of dredged spoils of any quantity on any sand area, within 50 feet of the edge of a coastal bluff, or within 20 feet of coastal waters or streams; or the removal, sale, or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the Commission has declared by resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use. Ongoing repair, maintenance and operational activities specifically defined in Section 3.4.7.1 in Chapter 3 and excluded from the NOID procedures defined in this PWP are excluded from the NOID procedures defined in this PWP.
  - 4 For activities described in the “Repair, Maintenance and Utility Hook-up Exclusions from Permit Requirements” referenced in this subsection, above, any activity that will have a risk of substantial adverse impact on public access, wetlands, or public views to the ocean.
- f. Development authorized by a coastal development permit issued by the Coastal Commission prior to certification of this PWP and not specifically incorporated into or superseded by this PWP, including the State Park’s vested rights as a State agency per PRC 30401 or that were codified in Coastal Commission Application 36-17 (General Plan for Pismo State Beach) and CDP 4-82-300 relating to park uses, or other State laws and codes.

## **5.5 Effective Date of Development Project Authorizations.**

Unless expressly stated otherwise in the approval documents, the effective date of a development project authorization shall be the date the Coastal Commission’s review of the



proposed project is deemed complete pursuant to Section 5.3.3, Coastal Commission Review and Determination of Consistency with PWP.

## **5.6 Coastal Commission’s Jurisdiction**

After certification of the PWP, the Coastal Commission retains permit jurisdiction over development on tidelands, submerged lands, and public trust lands, whether filled or unfilled, on and adjacent to the Park.

## **5.7 Monitoring Development Projects**

State Parks shall be responsible for ensuring that all terms, conditions, and mitigations associated with an authorized development project are fulfilled. Project managers and other State Parks personnel assigned responsibility to implement and/or monitor an approved development project shall prepare an annual monitoring report, commencing with approval of the PWP by the Coastal Commission, which includes a cumulative and calendar year summary of:

- a. Status of PWP-authorized development project implementation within that year, including expected completion date, and summary of compliance with any applicable implementation measures and/or conditions placed on the authorized NOID;
- b. Status and summary of compliance with conditions for any continuing obligations from project authorizations in previous years ;
- c. The District Superintendent shall maintain a record of PWP project summary reports in the District Superintendent’s office, and they shall be available for public review. The District Superintendent shall submit a copy of such summary reports within 30 days of its annual compilation upon request from the Executive Director.

## **5.8 Emergency Authorizations**

### **5.8.1 Definition of Emergency**

For this section, the word “emergency” means, “A sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services.”

### **5.8.2 Emergency Development in Areas Outside of the Coastal Commission’s Retained Jurisdiction but Within Original Jurisdiction**

#### **5.8.2.1 District Superintendent Authority**

Where immediate action by State Parks is required to protect life and property of the Park from imminent danger, or to restore, repair, or maintain Park property, utilities, or services destroyed, damaged, or interrupted by a natural disaster, serious accident, or in other cases of an emergency, the District Superintendent may authorize emergency development in the Park outside of the Coastal Commission’s retained jurisdiction area (see Section 5.6, Coastal Commission’s Jurisdiction) in compliance with this section. Emergency work within areas subject to the Coastal Commission’s permit jurisdiction is addressed in Section 5.8.3.



### **5.8.2.2 Extreme Emergency Requiring Immediate Action**

If an emergency is so severe that it does not allow time for the written requests (Section 5.8.2.4) and authorizations (Section 5.9.2.3) as described below, State Parks and persons who are undertaking any emergency development shall adhere as strictly as reasonably possible to the written request and authorization portions of these procedures. In all cases, compliance with Section 5.9.2.5, Notice of Emergency Development Authorization, is required.

### **5.8.2.3 Authorization of Emergency Development**

State Parks may undertake emergency development in the PWP area if it is found that:

- a. Immediate action is required to protect life and property from imminent danger, or to restore, repair, or maintain Park property, utilities, or services destroyed, damaged, or interrupted by natural disaster, serious accident, or in other cases of emergency;
- b. The emergency requires action more quickly than could occur through the PWP normal development review procedures, and the emergency development can and will be completed within 30 days unless otherwise specified in the emergency authorization;
- c. Public comment on the emergency development has been reviewed, if time allows;
- d. State Parks has coordinated with planning staff in the Central Coast District office of the Coastal Commission and/or the Executive Director as much as feasible;
- e. The emergency development proposed is the minimum necessary to address the emergency and, is the least environmentally damaging temporary alternative for addressing the emergency; and
- f. The emergency development proposed would be consistent with the PWP as much as feasible and/or would not impede attainment of PWP requirements following completion of the emergency development.

### **5.8.2.4 Form of Emergency Development Authorization**

The emergency development authorization shall be a written document and, at a minimum, shall include:

- a. The date of issuance;
- b. The scope of development to be performed;
- c. The timeframe for completion of the emergency development (not to exceed 30 days);
- d. Terms and conditions of the authorization;
- e. A condition is indicating that the emergency development must be completed within 30 days that the development is considered temporary unless it is subsequently authorized through regular PWP review procedures, and that regular PWP review must commence within 30 days of issuance of the emergency authorization;



- f. A provision stating that any development or structures constructed pursuant to an emergency authorization shall be considered temporary until authorized by the regular PWP development authorization processes, and that issuance of an emergency authorization shall not constitute an entitlement to the erection of permanent development or structures; and
- g. A provision stating that the development authorized through the emergency process must be removed and the affected area restored if a development project authorization has not been received within six months of approval of the emergency development (or within one year if a PWP amendment is also required). If it is not so authorized, the emergency development authorized, or the unauthorized portion of the development, shall be removed, and the affected area restored.

#### **5.8.2.5 Notice of Emergency Development Authorization**

No later than three days after the occurrence of the disaster or the discovery of the danger, the District Superintendent shall provide the affected city, if applicable, and the Executive Director of the Coastal Commission with at least notice by telephone of the type and location of the emergency action taken. As soon as possible and no later than seven days after the emergency, the District Superintendent shall submit a written Notice of Emergency Development Authorization to the affected city and the Executive Director. The Notice shall include information documenting compliance with this section, including the written emergency authorization. This notice is informational only.

#### **5.8.2.6 Development Authorized Pursuant to the Notice of Emergency Development Authorization**

Emergency development authorized pursuant to this section is subject to the following conditions:

- a. Emergency development must be completed within 30 days and the development is considered temporary unless it is subsequently authorized through regular PWP review procedures, which review must commence within ninety (90) days of the emergency authorization. Issuance of an emergency authorization shall not constitute an entitlement to the erection of permanent development or structures;
- b. Development authorized through the emergency process must be removed and the affected area restored if a development project authorization has not been received within one year of authorization of the emergency development.

### **5.8.3 Emergency Development in Areas within the Coastal Commission’s Permit Jurisdiction**

In the event of an emergency necessitating emergency development on land on which the Coastal Commission retains jurisdiction, the procedures of this subsection shall apply.

- a. The District Superintendent shall apply for an emergency permit to the Executive Director by letter if time allows, and by telephone or in-person if time does not allow. All processing of the proposed emergency permit shall be in accordance with 14 Cal. Code of Regulations Sections 13136-13143.



- b. Where immediate action by State Parks is required to protect life and public property from imminent danger or to restore, repair, or maintain public works, utilities, or services damaged or interrupted by natural disaster or other emergencies, the requirement for obtaining an emergency permit may be waived, per Section 30611 of the Coastal Act; provided that State Parks shall comply with the provisions of Section 30611. State Parks shall notify the Executive Director of the type and location of the emergency work within three days of the disaster or discovery of the danger, whichever comes first. This section does not authorize the erection of any permanent structure valued at more than \$25,000. Within seven days of taking action, State Parks shall notify the Executive Director in writing of the reasons why the action was taken and provide verification of compliance with the expenditure limits. State Parks' submittal to the Executive Director shall be reported to the Commission and otherwise processed under 14 Cal. Code of Regulations Section 13144.

## 5.9 PWP Amendment Procedures

Authorization for development that has been deemed consistent with the PWP by State Parks and the Coastal Commission may be subsequently amended as necessary according to the following procedures and as set forth in California Code of Regulations, Title 14 Section 13365 Amendment of Public Works Plan.

### 5.9.1 Public Hearing at Local Level

Prior to the submission of an application for an amendment to the PWP, State Parks shall demonstrate a public hearing at the local level has been held on the proposed amendment within a reasonable time prior to submission of the amendment application to the Coastal Commission (California Code of Regulations, Title 14 Section 13366). The reasonableness of the time of the prior public hearing shall be measured by the same standards as applied in California Code of Regulations, Title 14 Section 13353.5. In determining the reasonableness of the time of the public hearing(s), the Executive Director shall consider the location, scope or size of the PWP project or activity subject to amendment, the progress of State Parks toward obtaining all funding and governmental approvals for the amendment project or activity, and development of the PWP amendment. State Parks shall make steady progress toward the development of the PWP amendment in this manner after holding public hearings about the amendment and shall constitute evidence of the fairness of the time of the prior public hearing.

### 5.9.2 Amendment Application Contents and Coastal Commission Review Application

An application for an amendment to the certified PWP shall be submitted to the Executive Director of the Coastal Commission and shall contain information which meets the requirements for submittal of PWPs in California Code of Regulations, Title 14, Sections 13353 and 13354. Submittals shall include the following for completeness review:

- a. Sufficient information regarding the type, size, intensity, and location of amended development activity intended to be undertaken under the PWP and/or any changes to PWP policies, standards or procedures to determine consistency with applicable policies of Chapter 3 of the Coastal Act and/or the certified LCP, including, but not limited to the following:

- b. The specific type of activity or activities proposed to be undertaken;



- c. The maximum and minimum intensity of activity or activities proposed to be undertaken (e.g., maximum traffic intensity of a road);
- d. The maximum size of facilities proposed to be constructed according to the plan (e.g., number of lanes of a road) and the proposed timetable for the precise definition of all projects included in the plan and any phasing of development activity contemplated;
- e. The service area for the proposed activity or activities;
- f. The proposed method of financing the activity or activities;
- g. Environmental analysis, reports, studies, maps, etc. prepared for the PWP amendment and relevant to the analysis of the PWP amendment's consistency with Chapter 3 policies of the Coastal Act, as applicable;
- h. The proposed location or alternative locations considered for any development activity or activities to be undertaken under the proposed plans;
- i. The Executive Director of the Coastal Commission may require the submission of any additional information deemed necessary to determine the consistency of the proposed amendment with Chapter 3 policies of the Coastal Act, as applicable.
  1. The Executive Director shall deem a PWP amendment application complete when the Executive Director determines the information required according to this section has been received at the Central Coast District office of the California Coastal Commission. Said review shall be completed within no later than five (5) working days after the date it is received in the district office of the Coastal Commission during normal business hours (California Code of Regulations, Title 14, Section 13354) unless there are unusual circumstances, in which case said the review should be completed within no later than thirty (30) calendar days after the date it is received. Immediately upon making such determination, the Executive Director shall affix the date of filing to the application file and notify State Parks of the application completeness determination.
  2. In the event of disagreement concerning the need for additional information or the adequacy of information submitted to enable the Coastal Commission to analyze the PWP amendment for consistency with Chapter 3 of the Coastal Act or certified LCP, as applicable, State Parks may appeal the Executive Director's determination that additional information is needed to the Coastal Commission for resolution at the next Coastal Commission meeting or as soon after that as practicable, but no later than 60 calendar days after the Executive Director's receipt of written appeal by State Parks expressing disagreement with the Executive Director's determination that additional information is needed to analyze the PWP amendment for consistency with Chapter 3 of the Coastal Act, as applicable. The appeal shall be scheduled and heard by the Coastal Commission per the procedures set forth California Code of Regulations, Title 14 Section 13056(d). The Executive Director shall notify State Parks, no later than 60 calendar days after the Executive Director's receipt of written appeal by State Parks, of any change in the Executive





Director's determination that additional information is necessary to analyze project consistency with the certified PWP as directed by the Coastal Commission.

3. The Executive Director shall provide, make available to the public, or demonstrate the PWP amendment submittal materials have been available for public review, including environmental information on the amendment necessary to enable the Coastal Commission to determine the consistency of the amendment with the Chapter 3 policies of the Coastal Act, and/or the certified LCP, as applicable. Where the Executive Director determines it is not feasible to distribute the PWP amendment submittal materials and/or relevant environmental information due to the size or volume of the documents, or because of the costs of such distribution, the Executive Director shall provide notice to interested persons of the location of the environmental documents which are available for review, and a list of those documents. The PWP amendment materials and relevant environmental information shall be distributed or made available to the public before the public hearing on the plan, and the Coastal Commission shall provide the opportunity for public comment in response to the information before the close of the public hearing on the plan.

### **5.9.3 Coastal Commission Rejection of Application for PWP Amendment**

An application for an amendment to the PWP may be rejected if, in the opinion of the Executive Director of the Coastal Commission, the proposed PWP amendment would lessen or avoid the intended effect, or any conditions, of the certified PWP. The determination by the Executive Director to reject an amendment application shall be transmitted, in writing, to the applicant with an explanation of the reasons for such rejection (California Code of Regulations, Title 14, Section 13367).

State Parks may appeal the Executive Director's determination to reject a PWP amendment request to the Coastal Commission. The appeal must be submitted in writing and must set forth the basis for appeal. The appeal must be submitted within 10 working days after the Executive Director's rejection of the amendment application. If timely submitted, the executive director shall schedule the appeal for the next Coastal Commission hearing or as soon thereafter as practicable and shall provide notice of the hearing to all persons the Executive Director has reason to know may be interested in the application. If the Coastal Commission overturns the Executive Director's determination, the amendment application shall be accepted for processing in accordance with Sections 5.9.4 – 5.9.8.

### **5.9.4 Coastal Commission Acceptance/Process of Application for Minor Amendment**

Design modification or changed site conditions which may substantially deviate from the scope or conditions documented in the approved PWP, but that do not result in significant new impacts, or result in impacts that are addressed with adopted PWP policies and implementation measures, may be subject to a minor PWP amendment. Such improvements may include, but are not be limited to, addition or modification of a project feature that is minor (such as a new retaining wall, expanded recreational support facility, etc.) which were not anticipated in the PWP scope of improvements and assuming such improvements do not result in coastal resource impact not already addressed by PWP policies or implementation



measures, or addition of new policies or implementation measures that are consistent with PWP policies.

Where an application for an amendment to a PWP is accepted, the Executive Director shall determine whether the proposed amendment is minor in nature. If the Executive Director determines the proposed amendment is minor in nature, a notice of such determination, including a summary of the procedures set forth California Code of Regulations governing PWP amendments, shall be transmitted to the Coastal Commission and to all parties the Executive Director knows or has reason to know may be interested in the amendment. If no written objection to the proposed amendment is received in the Coastal Commission office within fifteen (15) working days of the published notice, the proposed PWP amendment shall be deemed minor and shall be approved. The Executive Director shall notify the Coastal Commission of the approved minor PWP amendment at the next regular meeting of the Coastal Commission. (California Code of Regulations, Title 14 Section 13368).

### **5.9.5 Coastal Commission Acceptance/Process of Application for Major Amendment**

Design modifications or changed site conditions that substantially deviate from the scope or conditions documented in the approved PWP, and that have the potential to result in significant new impacts not addressed with adopted PWP policies and implementation measures, may be subject to a major PWP amendment. Such improvements may include, but not limited to, addition or modification of a new project not anticipated in the PWP scope of improvements (such as a new park improvement project or mitigation project) and assuming such improvements result in coastal resource impacts not already addressed by PWP policies or implementations measures, or addition of new policies or implementation measures that would lessen the resource protection policies of the PWP.

If the Executive Director determines the proposed PWP amendment is not minor, or if objection is made to the Executive Director's determination, or if the proposed amendment affects conditions required in the certified PWP for purposes of protecting a coastal resource or coastal access consistent with the findings required in Section 13356, the amendment application will be processed as a regular amendment in accordance with California Code of Regulations, Title 14, Sections 13370 to 13371, further described in Section 5.9.6 below.

### **5.9.6 Notice and Hearing Procedures of for Major Amendment**

The Executive Director shall notify the Coastal Commission, State Park, any persons who participated in the Coastal Commission hearings for review of the PWP, and any other persons known or thought to be interested in the proposed PWP amendment of the acceptance of the amendment application. This notice shall be provided in the same manner and shall contain the same type of information as required for processing permit applications in California Code of Regulations, Title 14, Section 13057, as detailed in Section 5.2.1.1 above, and as required for the processing of a PWP in California Code of Regulations, Title 14, Section 13355.

### **5.9.7 Public Works Plan Amendment in Areas with a Certified Local Coastal Plans**

Where the PWP amendment review follows certification of a Local Coastal Plan (LCP) and if a proposed PWP amendment does not require an amendment to the LCP under Public Resources Code Section 30515, State Parks may submit the PWP amendment to the Coastal



Commission for review and certification. Coastal Commission review shall be undertaken only after consultation with the affected local government, who may recommend modification necessary of the proposed PWP amendment to carry out the certified LCP adequately.

- a. At least ten working days before the first public hearing on a proposed PWP amendment directly affecting a portion of the Coastal Zone for which an LCP has been certified by the Coastal Commission, the Executive Director of the Coastal Commission shall direct the Coastal Commission staff to consult with the affected local government for the impact of the proposed PWP amendment on the Coastal Zone and on the certified LCP; the results of such consultation shall be reported to the Coastal Commission at the first public hearing on the proposed PWP amendment.
- b. At least five working days before transmitting a written recommendation on the proposed PWP amendment to the Coastal Commission, the Executive Director shall request the affected local governments(s) send to the Coastal Commission its determination as to whether the proposed PWP amendment conforms with the certified LCP in the jurisdiction(s) affected by the proposed PWP amendment.
- c. The affected local government may, within its discretion, transmit its determination, as to the conformity of the proposed PWP amendment with the LCP, in writing to the Coastal Commission before the Coastal Commission voted on the proposed PWP amendment, and may include any recommended modification of the proposed PWP amendment that would conform it to the LCP; a local government may also indicate any proposed amendments to its LCP that would be necessary to accommodate the proposed PWP amendment.
- d. Approval of a PWP amendment by the Coastal Commission shall be accompanied by specific factual findings supporting the conclusion that the PWP amendment, as approved, conforms with the certified LCP in jurisdictions affected by the proposed public works plan amendment.

### **5.9.8 Consolidated Review of PWP Amendment and Project-Specific NOID**

If a proposed project intended to be undertaken pursuant to a PWP amendment is submitted to the Coastal Commission for a NOID concurrent with the submittal of a PWP amendment, the Coastal Commission shall review the project and the PWP amendment concurrently, and shall, if the project NOID is consistent with the PWP, as amended, approve the project as an integral component of the PWP amendment. The Coastal Commission may require conditions, where necessary, to bring the project into conformance with the Coastal Act.



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