

CALIFORNIA COASTAL COMMISSION

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September 28, 2000

To: Interested Parties

From: Peter M. Douglas, Executive Director

Subject: Notice of Proposed Change to the California Coastal Management Program (Addition to the List of Federal Permits and Licenses for activities likely to affect coastal zone uses and resources)

Notice of Action

Pursuant to the federal Coastal Zone Management Act regulations (15 CFR 923.80-923.84), notice is hereby given to interested parties of the California Coastal Commission's intention to submit to the National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resource Management (OCRM) change to California's coastal management program (CCMP). This change will modify the CCMP list of federal permits and licenses for activities likely to affect coastal zone uses and resources. The effect of adding this activity to the CCMP list is to require California Coastal Commission's concurrence with a consistency certification prior to the approval of the below listed federal permits. The Commission proposes to add the following federal license and permit activity to its list:

Department of the Interior – U.S. Fish and Wildlife Service:

Incidental take permits (ITP's) issued pursuant to section 10(a) of the federal Endangered Species Act of 1973 (ESA)(16 USC § 1539(a)(1)), this includes incidental take permits issued pursuant to the federal habitat conservation planning (HCP) program or any other multi-species or multi-agency habitat planning program.

The description of geographic areas outside the coastal zone¹ where activities authorized by ITP's are likely to affect the coastal zone include the following: 1) federal land geographically within the coastal zone; 2) areas inland of the coastal zone that include habitat that is intended in any way to offset impacts to resources within the coastal zone; and, 3) habitat inland of the coastal zone that a) is adjacent to, or contiguous with habitat within the coastal zone and b) directly or indirectly provides support for a grouping, colony, nesting pairs, or individuals of listed, threatened or species that are likely to become

¹ For purposes of this description of geographic areas, the term "coastal zone" has the meaning given to it by section 30103 of the CCMP.

threatened or listed species that is/are similar to that/those supported by the adjacent coastal zone habitat.

The Commission has determined that this addition to the CCMP list constitutes a routine program change of the federally approved CCMP; OCRM will review these changes to ensure they do not constitute an amendment as defined in 15 Code of Federal Regulations (CFR) 923.80. Comments may be submitted to OCRM within three weeks of the date of this notice (see below).

Background

The federal Coastal Zone Management Act of 1972 (CZMA) established a voluntary program to encourage states to develop and implement programs to manage the nation's coastal resources. The National Oceanic and Atmospheric Administration (NOAA) within the U.S. Department of Commerce administers the CZMA. The CZMA establishes minimum standards for state coastal management programs and provides federal grant assistance and federal consistency authority to states with approved programs. In 1977, the CCMP was approved as meeting the standards of the CZMA. The CCMP includes the policies of the California Coastal Act of 1976 (California Public Resources Code, Division 20), which is administered by the California Coastal Commission.

Under the requirements of the CZMA and its implementing regulations, changes to California's approved management program can be incorporated into the CCMP either as "amendments" or as "routine program changes." The federal regulations define an amendment as follows:

Amendments are defined as substantial changes in one or more of the following coastal management program areas:

- (1) Uses subject to management;*
- (2) Special Management Areas;*
- (3) Boundaries;*
- (4) Authorities and organization; and*
- (5) Coordination, public involvement and national interest. (15 CFR 923.80(d)).*

Routine program change is defined as "[f]urther detailing of a State's program that is the result of implementing provisions approved as part of a State's approved management program, that does not result in the type of action described in Section 923.80(d)..." (15 CFR 923.84).

Determination of Routine Program Change

The proposed addition to the CCMP's list of federal permits and licenses does not substantially change any of the management issue areas identified in 15 CFR 923.80(d). Rather, the list change will further define the types of federal permit and license activities subject to the Coastal Commission's federal consistency review. Furthermore, the change implements the intent of the administration of the federal consistency provisions in that any federal activity being licensed or permitted that affects land and water uses in the coastal zone shall be subject to the certification process for consistency with the management program. Therefore, for the reasons stated above, I have determined that this addition to the CCMP's list of federal permits and licenses it is a "routine program change."

Concurrent with the issuance of this notice, I am formally notifying NOAA of this determination for the federal permits, and geographic description referenced above, requesting NOAA's concurrence in this determination, and asking that this change be incorporated into the federally-approved CCMP.

Comments

As of today, September 28, 2000, I am notifying all interested federal, state and local entities and all other interested parties of my request that NOAA's Office of Ocean and Coastal Resources Management concur in my determination that the addition of these federal licenses and permits to the list of federal licenses and permit activities in the CCMP constitutes routine program implementation. Information is available to all interested parties by request from James R. Raives, Federal Consistency Coordinator or Rebecca K. Roth, Federal Programs Manager, at the California Coastal Commission's office in San Francisco. All comments must be received by OCRM by October 20, 2000, and should be sent to the following address with copies to the Federal Programs section of the Coastal Commission:

Keelin Kuipers, Coastal Management Specialist, Pacific Region
Office of Ocean and Coastal Resource Management
1305 East-West Highway
Silver Spring, MD 20910