

**CHAPTER 8
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ARTICLE I FINDINGS AND GENERAL PROVISIONS

Section 30700 Ports included

For purposes of this division, notwithstanding any other provisions of this division except as specifically stated in this chapter, this chapter shall govern those portions of the Ports of Hueneume, Long Beach, Los Angeles, and San Diego Unified Port District located within the coastal zone, but excluding any wetland, estuary, or existing recreation area indicated in Part IV of the coastal plan.

(Amended by Ch. 714, Stats. 1981.)

Section 30700.5 Application of other provisions

The definitions of Chapter 2 (commencing with Section 30100) and the provisions of Chapter 9 (commencing with Section 30800) and Section 30900 shall apply to this chapter.

Section 30701 Legislative finding and declaration

The Legislature finds and declares that:

(a) The ports of the State of California, including the Humboldt Bay Harbor, Recreation, and Conservation District, constitute one of the state's primary economic and coastal resources and are an essential element of the national maritime industry.

(b) The location of the commercial port districts within the State of California, including the Humboldt Bay Harbor, Recreation, and Conservation District, are well established, and for many years such areas have been devoted to transportation and commercial, industrial, and manufacturing uses consistent with federal, state and local regulations. Coastal planning requires no change in the number or location of the established commercial port districts. Existing ports, including the Humboldt Bay Harbor, Recreation, and Conservation District, shall be encouraged to modernize and construct necessary facilities within their boundaries in order to minimize or eliminate the necessity for future dredging and filling to create new ports in new areas of the state.

(Amended by Ch. 515 Stats. 1977.)

ARTICLE 2 POLICIES

Section 30702 Ports included

For purposes of this division, the policies of the state with respect to providing for port-related developments consistent with coastal protection in the port areas to which this chapter applies, which require no commission permit after certification of a port master plan and which, except as provided in Section 30715, are not appealable to the commission after certification of a master plan, are set forth in this chapter.

Section 30703 Protection of commercial fishing harbor space

The California commercial fishing industry is important to the State of California; therefore, ports shall not eliminate or reduce existing commercial fishing harbor space, unless the demand for commercial fishing facilities no longer exists or adequate alternative space has been provided. Proposed recreational boating facilities within port areas shall, to the extent it is feasible to do so, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

Section 30704 Blank

Section 30705 Diking, filling or dredging water areas

(a) Water areas may be diked, filled, or dredged when consistent with a certified port master plan only for the following:

(1) Such construction, deepening, widening, lengthening, or maintenance of ship channel approaches, ship channels, turning basins, berthing areas, and facilities as are required for the safety and the accommodation of commerce and vessels to be served by port facilities.

(2) New or expanded facilities or waterfront land for port-related facilities.

(3) New or expanded commercial fishing facilities or recreational boating facilities.

(4) Incidental public service purposes, including, but not limited to, burying cables or pipes or inspection of piers and maintenance of existing intake and outfall lines.

(5) Mineral extraction, including sand for restoring beaches, except in biologically sensitive areas.

(6) Restoration purposes or creation of new habitat areas.

(7) Nature study, mariculture, or similar resource-dependent activities.

(8) Minor fill for improving shoreline appearance or public access to the water.

(b) The design and location of new or expanded facilities shall, to the extent practicable, take advantage of existing water depths, water circulation, siltation patterns, and means available to reduce controllable sedimentation so as to diminish the need for future dredging.

(c) Dredging shall be planned, scheduled, and carried out to minimize disruption to fish and bird breeding and migrations, marine habitats, and water circulation. Bottom sediments or sediment elutriate shall be analyzed for toxicants prior to dredging or mining, and where water quality standards are met, dredge spoils may be deposited in open coastal water sites designated to minimize potential adverse impacts on marine organisms, or in confined coastal waters designated as fill sites by the master plan where such spoil can be isolated and contained, or in fill basins on upland sites. Dredge material shall not be transported from coastal waters into estuarine or fresh water areas for disposal.

(d) For water areas to be diked, filled, or dredged, the commission shall balance and consider socioeconomic and environmental factors.

(Amended by Ch. 310, Stats. 1984.)

Section 30706 Fill

In addition to the other provisions of this chapter, the policies contained in this section shall govern filling seaward of the mean high tide line within the jurisdiction of ports:

(a) The water area to be filled shall be the minimum necessary to achieve the purpose of the fill.

(b) The nature, location, and extent of any fill, including the disposal of dredge spoils within an area designated for fill, shall minimize harmful effects to coastal resources, such as water quality, fish or wildlife resources, recreational resources, or sand transport systems, and shall minimize reductions of the volume, surface area, or circulation of water.

(c) The fill is constructed in accordance with sound safety standards which will afford reasonable protection to persons and property against the hazards of unstable geologic or soil conditions or of flood or storm waters.

(d) The fill is consistent with navigational safety.

Section 30707 Tanker terminals

New or expanded tanker terminals shall be designed and constructed to do all of the following:

(a) Minimize the total volume of oil spilled.

(b) Minimize the risk of collision from movement of other vessels.

(c) Have ready access to the most effective feasible oil spill containment and recovery equipment.

(d) Have onshore deballasting facilities to receive any fouled ballast water from tankers where operationally or legally required.

Section 30708 Location, design and construction of port-related developments

All port-related developments shall be located, designed, and constructed so as to:

(a) Minimize substantial adverse environmental impacts.

(b) Minimize potential traffic conflicts between vessels.

(c) Give highest priority to the use of existing land space within harbors for port purposes, including, but not limited to, navigational facilities, shipping industries, and necessary support and access facilities.

(d) Provide for other beneficial uses consistent with the public trust, including, but not limited to, recreation and wildlife habitat uses, to the extent feasible.

(e) Encourage rail service to port areas and multicompany use of facilities.

**ARTICLE 3
IMPLEMENTATION: MASTER PLAN**

Section 30710 Jurisdictional map; map delineating wetland, estuary or recreational areas

Within 90 days after January 1, 1977, the commission shall, after public hearing, adopt, certify, and file with each port governing body a map delineating the present legal geographical boundaries of each port's jurisdiction within the coastal zone. The Commission shall, within such 90-day period, adopt and certify after public hearing, a map delineating boundaries of any wetland, estuary, or existing recreation area indicated in Part IV of the coastal plan within the geographical boundaries of each port.

Section 30711 Preparation, adoption and contents of plan

(a) A port master plan that carries out the provisions of this chapter shall be prepared and adopted by each port governing body, and for informational purposes, each city, county, or city and county which has a port within its jurisdiction shall incorporate the certified port master plan in its local coastal program. A port master plan shall include all of the following:

(1) The proposed uses of land and water areas, where known.

(2) The projected design and location of port land areas, water areas, berthing, and navigation ways and systems intended to serve commercial traffic within the area of jurisdiction of the port governing body.

(3) An estimate of the effect of development on habitat areas and the marine environment, a review of existing water quality, habitat areas, and quantitative and qualitative biological inventories, and proposals to minimize and mitigate any substantial adverse impact.

(4) Proposed projects listed as appealable in Section 30715 in sufficient detail to be able to determine their consistency with the policies of Chapter 3 (commencing with Section 30200) of this division.

(5) Provisions for adequate public hearings and public participation in port planning and development decisions.

(b) A port master plan shall contain information in sufficient detail to allow the commission to determine its adequacy and conformity with the applicable policies of this division.

Section 30712 Solicitation of information; notice of completion; public hearing

In the consideration and approval of a proposed port master plan, the public, interested organizations, and governmental agencies shall be encouraged to submit relevant testimony, statements, and evidence which shall be considered by the port governing body. The port governing body shall publish notice of the completion of the draft master plan and submit a copy thereof to the commission and shall, upon request, provide copies to other interested persons, organizations, and governmental agencies. Thereafter, the port governing body shall hold a public hearing on the draft master plan not earlier than 30 days and not later than 90 days following the date the notice of completion was published.

Section 30713 (Repealed by Ch. 294, Stats. 2006.)

Section 30714 Adoption of plan; certification

After public notice, hearing, and consideration of comments and testimony received pursuant to Sections 30712 and 30713, the port governing body shall adopt its master plan and submit it to the commission for certification in accordance with this chapter. Within 90 days after the submittal, the commission, after public hearing, shall certify the plan or portion of a plan and reject any portion of a plan which is not certified. The commission may not modify the plan as submitted as the condition of certification. If the commission rejects any portion of a plan, it shall base that rejection upon written findings of fact and conclusion of law. If the commission fails to take action within the 90-day period, the port master plan shall be deemed certified. The commission shall certify the plan, or portion of a plan, if the commission finds both of the following:

(a) The master plan, or certified portions thereof, conforms with and carries out the policies of this chapter.

(b) Where a master plan, or certified portions thereof, provide for any of the developments listed as appealable in Section 30715, the development or developments are in conformity with all the policies of Chapter 3 (commencing with Section 30200).

(Amended by Ch. 651, Stats. 1981.)

Section 30715 Permit authority; appealable approvals

(a) Until such time as a port master plan or any portion thereof has been certified, the commission shall permit developments within ports as provided for in Chapter 7 (commencing with Section 30600). After a port master plan or any portion thereof has been certified, the permit authority of the commission provided in Chapter 7 (commencing with Section 30600) shall no longer be exercised by the commission over any new development contained in the certified plan or any portion thereof and shall at that time be delegated to the appropriate port governing body, except that approvals of any of the following categories of development by the port governing body may be appealed to the commission:

(1) Developments for the storage, transmission, and processing of liquefied natural gas and crude oil in such quantities as would have a significant impact upon the oil and gas supply of the state or nation or both the state and nation. A development which has a significant impact shall be defined in the master plans.

(2) Waste water treatment facilities, except for those facilities which process waste water discharged incidental to normal port activities or by vessels.

(3) Roads or highways which are not principally for internal circulation within the port boundaries.

(4) Office and residential buildings not principally devoted to the administration of activities within the port; hotels, motels, and shopping facilities not principally devoted to the sale of commercial goods utilized for water-oriented purposes; commercial fishing facilities; and recreational small craft marina related facilities.

(5) Oil refineries.

(6) Petrochemical production plants.

(b) If maintenance dredging is part of, or is associated with, any category of development specified in paragraphs (1) to (6), inclusive, of subdivision (a), the commission shall not consider that maintenance dredging in its review and approval of those categories.

(Amended by Ch. 584, Stats. 1983.)

Section 30715.5 Finding of conformity

No developments within the area covered by the certified port master plan shall be approved by the port governing body unless it finds that the proposed development conforms with such certified plan.

Section 30716 Amendment; Commission certification; minor or de minimis amendment procedure; guidelines

(a) A certified port master plan may be amended by the port governing body, but an amendment shall not take effect until it has been certified by the commission. Any proposed amendment shall be submitted to, and processed by, the commission in the same manner as provided for submission and certification of a port master plan.

(b) The commission shall, by regulation, establish a procedure whereby proposed amendments to a certified port master plan may be reviewed and designated by the executive director of the commission as being minor in nature and need not comply with Section 30714. These amendments shall take effect on the 10th working day after the executive director designates such amendments as minor.

(c)(1) The executive director may determine that a proposed certified port master plan amendment is de minimis if the executive director determines that the proposed amendment would have no impact,

either individually or cumulatively, on coastal resources, is consistent with the policies of Chapter 3 (commencing with Section 30200), and meets the following criteria:

(A) The port governing body, at least 21 days prior to the date of submitting the proposed amendment to the executive director, has provided public notice, and provided a copy to the commission, which specifies the dates and places where comments will be accepted on the proposed amendment, contains a brief description of the proposed amendment, and states the address where copies of the proposed amendment are available for public review, by one of the following procedures:

(i) Publication, not fewer times than required by Section 6061 of the Government Code, in a newspaper of general circulation in the area affected by the proposed amendment. If more than one area will be affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.

(ii) Posting of the notice by the port governing body both onsite and offsite in the area affected by the proposed amendment.

(iii) Direct mailing to the owners and occupants of contiguous property shown on the latest equalized assessment roll.

(B) The proposed amendment does not propose any change in land use or water uses or any change in the allowable use of property.

(2) At the time that the port governing body submits the proposed amendment to the executive director, the port governing body shall also submit to the executive director any public comments that were received during the comment period provided pursuant to subparagraph (A) of paragraph (1).

(3)(A) The executive director shall make a determination as to whether the proposed amendment is de minimis within 10 working days from the date of submittal by the local government. If the proposed amendment is determined to be de minimis, the proposed amendment shall be noticed in the agenda of the next regularly scheduled meeting of the commission, in accordance with Section 11125 of the Government Code, and any public comments forwarded by the port governing body shall be made available to the members of the commission.

(B) If three members of the commission object to the executive director's determination that the proposed amendment is de minimis, the proposed amendment shall be set for public hearing in accordance with the procedures specified in subdivision (a) or, at the request of the port governing body, returned to the port governing body. If set for public hearing under subdivision (a), the time requirements set by this section and Section 30714 shall commence from the date on which the objection to the de minimis designation was made.

(C) If three or more members of the commission do not object to the de minimis determination, the de minimis amendment shall become a part of the certified port master plan 10 days from the date of the commission meeting.

(4) The commission may, after a noticed public hearing, adopt guidelines to implement this subdivision, which shall be exempt from review by the Office of Administrative Law and from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The commission shall file any guidelines adopted pursuant to this paragraph with the Office of Administrative Law.

(Amended by Ch. 525, Stats. 1994; amended by Ch. 538, Stats. 2006; amended by Ch. 208, Stats. 2009.)

Section 30717 Approval of appealable development; notice; effective date; appeals

The governing bodies of ports shall inform and advise the commission in the planning and design of appealable developments authorized under this chapter, and prior to commencement of any appealable development, the governing body of a port shall notify the commission and other interested persons, organizations, and governmental agencies of the approval of a proposed appealable development and indicate how it is consistent with the appropriate port master plan and this division. An approval of the appealable development by the port governing body pursuant to a certified port master plan shall become effective after the 10th working day after notification of its approval, unless an appeal is filed with the commission within that time. Appeals shall be filed and processed by the commission in the same manner as appeals from local government actions as set forth in Chapter 7 (commencing with Section 30600) of this division. No appealable development shall take place until the approval becomes effective.

Section 30718 Nonappealable developments; environmental impact documents

For developments approved by the commission in a certified master plan, but not appealable under the provisions of this chapter, the port governing body shall forward all environmental impact reports and negative declarations prepared pursuant to the Environmental Quality Act of 1970 (commencing with Section 21000) or any environmental impact statements prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) to the commission in a timely manner for comment.

Section 30719 Projects deemed certified

Any development project or activity authorized or approved pursuant to the provisions of this chapter shall be deemed certified by the commission as being in conformity with the coastal zone management program insofar as any such certification is requested by any federal agency pursuant to the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), National Oceanic and Atmospheric Administration, and memoranda of understanding between the state and federal governments relative thereto.

Section 30720 Judicial prohibition or stay; reinstatement of permit authority

If the application of any port master plan or part thereof is prohibited or stayed by any court, the permit authority provided for in Chapter 7 (commencing with Section 30600) shall be reinstated in the commission. The reinstated permit authority shall apply as to any development which would be affected by the prohibition or stay.

(Amended by Ch. 285, Stats. 1991.)

Section 30721 Port Hueneme; reimbursement of costs

(a) The Legislature recognizes that Port Hueneme is unique in its relationship to the coast in that it is the only deep water port operated by a harbor district, and is without access to city or county funds. Therefore, the governing body of Port Hueneme may claim reimbursement of costs it incurs in the preparation and certification of a port master plan as required by this chapter.

(b) Prior to submitting any claim for reimbursement, the governing body of the port shall submit its proposed claims to the executive director of the commission for review and approval and shall provide adequate documentation to enable the executive director to make the following determinations:

- (1) That the work done was directly attributable to the operation of this chapter.

(2) That the work done is reasonably related to, and appears to be necessary for, the preparation of a certifiable port master plan for the geographic area within the port's jurisdiction as identified by the commission pursuant to Section 30710.

(3) That the governing body of a port is not reimbursed for the costs of the work from any other source.

The executive director of the commission shall, within 60 days after receipt of the necessary information, approve the proposed claim, if the director can make the determinations set forth in this subdivision.

(c) After a proposed claim has been reviewed and approved by the executive director of the commission pursuant to subdivision (b), the governing body of the port may submit its claim for reimbursement to the Controller who shall then process and pay any such claim as provided for in Section 2231 of the Revenue and Taxation Code.

(Added by Ch. 741, Stats. 1978.)