

MINUTE ITEM

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CALENDAR ITEM

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ADOPTION OF OPERATING POLICY FOR ISSUANCE OF
RECREATIONAL PIER PERMITS PURSUANT TO CALIFORNIA
ADMINISTRATIVE CODE TITLE 2, DIVISION 3, ARTICLE 2

BACKGROUND:

For a number of years, Recreational Pier Permits (RPP's) were processed by the State Lands Commission on a rent free basis under Section 6503 of the Public Resources Code.

On September 24, 1976 the Office of the Attorney General issued Opinion No. SO 75/75 which stated in part "that part of Section 6503 of the Public Resources Code providing that such a permit shall be issued to a littoral landowner rent free, which part is severable from the remainder of the section, is unconstitutional."

As a result of this opinion, The California Administrative Code, Title 2, Articles 1 and 2 was revised on December 15, 1976 to include General Permits - Recreational Use, which provided for a rental based on a specified fee schedule. These revisions became effective March 1, 1977. This permit was used in place of the Recreational Pier Permit.

During the period from March 1, 1977 until September 1, 1977, 53 General Permits - "Recreational Use", were processed under these revised regulations.

On February 18, 1977 Senator Nejedly introduced SB 349, which provided that no rental fee shall be charged for private recreational piers constructed for the use of the littoral landowner, making a finding that such piers were a public benefit. On January 1, 1978, SB 349 became law, (Chapter 431, statutes of 1977), thus providing for rent free permits for littoral landowners.

On May 31, 1978 the Commission approved revised Articles 1 and 2 of the California

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Administrative Code to comply with the intent of Chapter 431, Statutes of 1977, which provides that private Recreational Pier Permits will be rent free to applicants demonstrating that they qualify as littoral landowners under P.R.C. 6503.

These Articles became effective July 2, 1978.

On April 27, 1978 the Commission approved the application/permit for recreational piers which also contained qualifications, terms and conditions for said permits.

CLARIFICATION OF RECREATIONAL PIER DEFINITION:

To clarify and establish a fair and equitable policy and maintain uniformity for Recreational Pier Permits, staff recommends that the Commission approve the attached procedure (Exhibit "A") and delegate the authority to modify and clarify this procedure to the Executive Officer or his designee. Each application will be reviewed individually and must fully meet the definition as provided for in Articles 1 and 2 of Title 2, California Administrative Code and Section 6503 of the Public Resources Code. These qualifications are basically incorporated into the application/permit.

EXHIBIT: A. Operating Procedure for Issuance of Recreational Pier Permits.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN EIR HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF P.R.C. 21065, 14 CAL. ADM. CODE 15037.
2. APPROVE THE OPERATING PROCEDURE FOR ISSUANCE OF RENT FREE RECREATIONAL PIER PERMITS IN EXHIBIT "A" ATTACHED HERETO, AND AUTHORIZE ITS INCLUSION IN THE COMMISSION'S STAFF PROCEDURES MANUAL.
3. DELEGATE TO THE EXECUTIVE OFFICER OR HIS DESIGNEE, THE AUTHORITY TO MODIFY AND CLARIFY AS NECESSARY, THE OPERATING PROCEDURE FOR ISSUANCE OF RENT FREE RECREATIONAL PIER PERMITS TO EXPEDITE PROCESSING AND FOR MAINTENANCE OF A CONSISTENT AND EQUITABLE POLICY.

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4. APPROVE THE WAIVING OF ANY ADDITIONAL FEES ON GENERAL PERMITS (RECREATIONAL) AFTER JANUARY 1, 1978, WHICH NOW QUALIFY AS RENT FREE RECREATIONAL PIERS AND CONVERSION OF THESE PERMITS TO RENT FREE RECREATIONAL PIER PERMITS.

EXHIBIT "A"

OPERATING PROCEDURE FOR ISSUANCE OF
RENT FREE RECREATIONAL PIER PERMITS

The following is intended to supplement and clarify the definitions of Recreational Piers pursuant to California Administrative Code, Title 2, Division 3, Articles 1 and 2 and P.R.C. Section 6503.

- (1) If there is an intervening fee ownership between the State's land and the upland ownership, the applicant will not qualify for a recreational pier permit.
- (2) If the intervening ownership is less than fee title, such as a highway or flood control easement, and railroad right-of-way, and all other qualifications, terms and conditions are met, the applicant will qualify for a recreational pier permit.
- (3) If a structure otherwise qualifies as a recreational pier except for the existence of adjoining facilities not used for the mooring of a boat such as living quarters, swimming floats, sun decks, swim areas, fishing platforms and dressing, storage or eating facilities, a general permit (recreational) will be issued. The rental will be based on that portion of the structure(s) not qualifying as a recreational pier permit. The general permit (recreational) will have a clause in Section 3 similar to the following:

"Annual rent of \$ _____ for the type of structure. The pier (or balance of the pier) is rent free pursuant to Public Resources Code, Section 6503."
- (4) If a structure otherwise qualifies as a recreational pier, except the upland is held in trust, it will qualify as a rent free recreational pier if the trust is solely for convenience of the upland owner and the upland structure is for the owner's personal single family use.
- (5) An applicant may have more than 1 pier or 1 buoy or any combination as long as they meet all other requirements. Two recreational buoys are acceptable. Any buoys or piers in excess of 2 per upland ownership do not qualify as rent free. If the facility is not for upland owner's personal use, it will not qualify

for a rent free recreational pier permit. If any rental is charged by the owner for any mooring structure, or portion thereof, it is to be classified as a commercial enterprise. Occasional rental of the upland single family residence will not eliminate the mooring structure as a rent free pier.

- (6) A mobile home, on the upland, qualifies as a single family dwelling provided it has had the wheels removed, has skirts and is intended to be a permanent residential structure.
- (7) Homeowner groups and associations, will not qualify for a rent free recreational pier permit.
- (8) Joint ownership of a recreational pier on a common ownership line, which otherwise meets the qualifications of a rent free recreational pier will qualify as a rent free recreational pier, and said permit will be issued jointly to those common owners.