

## COASTAL ZONE MANAGEMENT ACT

### OVERVIEW

Congress enacted the Coastal Zone Management Act (CZMA) in 1972 in an attempt to address through legislation the increasing pressures that overdevelopment was having on the nation's coastal resources. Under the CZMA, states are encouraged to voluntarily develop coastal zone management programs (CZMPs) that work to preserve and protect the unique features relevant to each coastal area.

In 1965, the California legislature enacted the [McAteer-Petris Act](#), and in 1976, it enacted the [California Coastal Act](#). These acts created the San Francisco Bay Conservation and Development Commission (BCDC) and [California Coastal Commission \(CCC\)](#), respectively, the two State agencies primarily responsible for putting the State's CZMP to work. In addition, the California Coastal Act created a unique partnership between the CCC and local governments, allowing them to act together to manage the conservation and development of coastal resources through a comprehensive planning and regulatory program.

The CCC has jurisdiction over all of the State's coastal zone, excluding the Suisun Marsh and San Francisco Bay Area, which are governed by the BCDC. Through the CCC, local governments are given the opportunity to prepare local coastal programs (LCPs) and issue coastal permits for their respective areas; LCP oversight is conducted on a regular basis by the CCC.

**SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION.** The BCDC was established to accomplish two primary goals: to prevent the unnecessary filling of San Francisco Bay and to increase public access to and along the bay's shoreline. As a result, the BCDC has permit jurisdiction over the following areas:

- the open water, marshes, and mudflats of greater San Francisco Bay, including Suisun, San Pablo, Honker, Richardson, San Rafael, San Leandro, and Grizzly Bays and the Carquinez Strait;
- the first 100 feet inland from the shoreline around San Francisco Bay;
- the portion of Suisun Marsh—including levees, waterways, marshes, and grasslands—below the 10-foot contour line (as measured off a U.S. Geological Survey quadrangle map from mean high water);
- portions of most creeks, rivers, sloughs, and other tributaries that flow into San Francisco Bay; and
- salt ponds, duck hunting preserves, game refuges, and other managed wetlands that have been diked off from San Francisco Bay.

**PERMITS ISSUED BY THE SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION.** The BCDC issues two legally different permits based on the project location: San Francisco Bay permits and Suisun Marsh development permits. In addition, each of these permits comes in three different forms with different criteria for project evaluation. The size, location, and impacts of a project determine which type of permit is appropriate for a particular project. The following are the three different types of permits:

- **Administrative permits** are issued for activities that qualify as a minor repair or improvement.
- **Major permits** are issued for work that is more extensive than a minor repair of improvement.
- **Abbreviated regionwide and regionwide permits** cover routine maintenance that qualifies for approval under an existing BCDC regionwide permit.

Figure 8 illustrates the BCDC permit application process.

#### **WHO NEEDS TO COMPLY?**

Any person or public agency other than a federal agency that proposes one or more of the following undertakings in or around San Francisco Bay or Suisun Bay must obtain a development permit from the BCDC. (Federally proposed projects are required to provide BCDC with a consistency determination.)

- **Filling.** Placing solid material, building pile-supported or cantilevered structures, disposing of material, or permanently mooring vessels in the bay or in certain tributaries of the bay.
- **Dredging.** Extracting material from the bottom of the bay.
- **Shoreline projects.** Nearly all work, including grading, on the land within 100 feet of the bay's shoreline.
- **Suisun Marsh projects.** Nearly all work, including land divisions, in the portion of the Suisun Marsh below the 10-foot contour level.
- **Other projects.** Any filling, new construction, major remodeling, and substantial change in use in the bay, along the shoreline, in salt ponds, duck hunting preserves or other managed wetlands adjacent in the bay, and many land subdivisions in these areas.

In general, it is likely that a permit will be required if the project is planned along the shoreline of San Francisco Bay in the following Bay Area counties: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma. In addition, a marsh development permit will be required for all activities in or around Suisun Marsh.

## HOW LONG DOES THE APPROVAL PROCESS TAKE?

The BCDC has about 120 days to process all applications. Thirty days are allotted after a permit application is received to determine whether the package is complete. Upon receipt of a complete application package, the BCDC has up to 90 days to make a final determination on the project permit. The length of time associated with the process will vary with the complexity of the project (approximately 45–60 days for administrative permits, 45 days for regionwide permits, 90 days for major permits).

## WHAT INFORMATION DOES THE APPLICANT NEED TO PROVIDE?

A BCDC application is considered complete when all the following information has been provided.

	Major Permit	Administrative Permit	Regionwide Permit
<b>Application Form*</b>	One fully completed and signed original and six copies	One fully completed and signed copy	One fully completed and signed copy
<b>Large Scale Project Site Plan</b>	One copy	One copy	One copy
<b>8 ½-Inch by 11-Inch Project Site Plan</b>	Seven copies	One copy	One copy
<b>8 ½-Inch by 11-Inch Vicinity Map</b>	Seven copies	One copy	One copy
<b>Proof of Legal Interest</b>	One copy	One copy	One copy
<b>Local Government Approval</b>	One copy	One copy	None
<b>Environmental Documentation</b>	One copy of environmental determination and environmental impact statement (EIS) or EIS summary	One copy of environmental determination	None
<b>Notice of Pending Application</b>	Posted at project site	Posted at project site	Posted at project site
<b>Certification of Posted Notice</b>	One signed original	One signed original	One signed original
<b>Permit Processing Fee</b>	\$250–\$10,000	\$150–\$5,000	\$100

\* A BCDC application includes applicant information; detailed project description; bay fill information; justification of the proposed fill; detailed shoreline band information; public access information; dredging information; governmental approvals; public notice information (list of owners and residents of all properties located within 100 feet of the project site); environmental impact documentation information; and disclosure of campaign contributions. (A shoreline band is the land area lying between the bay shoreline and a line drawn parallel to and 100 feet from the bay shoreline. The bay shoreline is the mean high water line, or 5 feet above mean sea level in marshlands.)

## **WHAT IS THE FEE?**

Permit processing fees for administrative permits are \$150–\$5,000; for major permits, \$250–\$10,000; and for regionwide permits, \$100.

## **WHAT DOES THE APPLICATION AND EVALUATION PROCESS ENTAIL?**

The CZMA allows the BCDC to review federally sponsored or federally funded projects. The BCDC carries out its “federal consistency” responsibilities by reviewing federal projects in much the same way that it reviews permit applications. However, the BCDC cannot require federal agencies to submit permit applications and does not usually impose conditions in its federal consistency decisions. Nevertheless, federal agencies must provide the project details, data, and other material required by the form to assure that the BCDC has the information it needs to evaluate federal projects.

For actions that are located within the BCDC jurisdiction, but for which there is no federal involvement, applicants must obtain a development permit (for actions within the coastal zone) or a marsh development permit (for actions within or along the bay). Applications for development permits and marsh development permits are issued in the same way.

**ADMINISTRATIVE PERMITS.** These permits are issued for activities that qualify as a minor repair or improvement. After an application package is deemed complete, projects that fall under this permit category are summarized and sent out for review by resource agencies and members of the public who have specifically requested additional information on the project. Provided that no substantive adverse comments are received, the proposed project is placed on a consent calendar with a staff recommendation for approval or disapproval and presented at the next BCDC board meeting. The application will be acted on after that meeting, provided that the BCDC does not decide to consider the project itself.

The primary difference between the administrative permit and the major permit is that the administrative permitting process does not require a formal public hearing.

**MAJOR PERMITS.** These permits are issued for work that is more extensive than a minor repair or improvement. Upon receipt of a complete application, the proposed project is summarized and sent out for review by the general public and the resource agencies. Approximately 30 days later, the BCDC holds a public hearing on the application, giving the applicant the opportunity to present the proposed project and other concerned parties the chance to present relevant concerns and issues. The BCDC board will then deliberate on the project and consider a staff recommendation. At times the BCDC will vote on the permit application at its next meeting.

**ABBREVIATED REGIONWIDE AND REGIONWIDE PERMITS.** These permits cover routine maintenance that qualifies for approval under an existing BCDC regionwide permit. Once an application is deemed complete, BCDC staff members have 14 days to determine whether the

work proposed is authorized by an existing regionwide permit. Once this determination is made, the applicant is notified and work can begin if the application is approved.

### **DOES THIS PROCESS TRIGGER THE NEED FOR COMPLIANCE WITH OTHER REGULATIONS?**

Compliance with the CZMA does not trigger other regulations; however, the BCDC will not consider an application complete until the applicant has received all discretionary local permits. In addition, projects that require BCDC permits often must receive authorization from the San Francisco Bay Regional Water Quality Control Board and the U.S. Army Corps of Engineers.

### **WHAT ARE THE OPPORTUNITIES FOR FACILITATING COMPLIANCE WITH THIS PROCESS?**

The following are recommended steps to simplify and streamline compliance with the CZMA for CALFED actions.

- **Consider federal agency sponsorship of projects within BCDC’s jurisdiction**, which may avoid the need to obtain a permit. (Project details, data, and required materials still must be provided to the BCDC.)
- **If a permit is required, submit a draft application.** Draft applications can be submitted for any project and are strongly encouraged by BCDC for large or complex projects. Draft applications allow BCDC staff members to better advise an applicant on the relevant policies and procedures and the type of detailed information that is needed to complete the application. Whether or not they submit a draft application, applicants should consult with BCDC staff members early in a project’s planning to determine BCDC’s policies relative to the project and receive assistance in completing the permit application.
- **Tier environmental review for project-level actions from the CALFED Bay-Delta Program Final Programmatic Environmental Impact Statement/ Environmental Impact Report (PEIS/EIR).** The Programmatic Record of Decision for the PEIS/EIR includes a CZMA Programmatic Consistency Determination. This document found that the CALFED Preferred Program Alternative as a whole is consistent with the CZMA. However, project-specific actions may require federal agency involvement if they include proposals to deposit fill in, or to change the use of, water, land, or structures in or around San Francisco or Suisun Bays; these actions will require project-specific compliance with the CZMA. Federal agencies may be required to prepare federal consistency analyses certifying that the proposed project-specific actions are consistent with the BCDC’s CZMP. The environmental review for project-level actions that could affect coastal zone resources will be tiered from the PEIS/EIR; this review may be simplified because project descriptions of specific actions would already contain strategies (if necessary) to avoid and mitigate impacts on resources of the coastal zone.

