

# APPENDIX E

## ADMINISTRATIVE GUIDELINES FOR IMPLEMENTING MEASURE A96 - VOTER APPROVAL INITIATIVE

*(Adopted and Incorporated by Reference by Ord. 4234, 7/23/96)*

The following guidelines are intended to clarify and assist with the implementation of the Voter Approval Initiative, Measure A96, as approved by the electorate on March 26, 1996. Pursuant to the mandate of the initiative as incorporated in Section 35-150.1 of Article II, "any legislative approvals which would authorize or allow the development, construction, installation, or expansion of any onshore support facility for offshore oil and gas activity on the South Coast of the County of Santa Barbara (from Point Arguello to the Ventura County border) shall not be final unless such authorization is approved, in the affirmative, by a majority of the votes cast by the voters of the County of Santa Barbara in a regular election.

1. **Legislative Acts** - Only those onshore support projects requiring legislative acts are subject to referendum. Acts by local legislatures (the Board of Supervisors) that are "administrative", "executive", or "quasi-judicial" are not subject to referendum. Whether an action is "legislative" or not is determined by the courts on a case-by-case basis, considering legal principles and applicable facts and circumstances. The basic definitions are:
  - An action is "legislative" if it prescribes new policy or plan.
  - An action is "administrative" if it applies existing policy.
- General Plan amendments and rezones are legislative actions.
- Not all discretionary actions by the Board of Supervisors are legislative. The granting of discretionary permits, decisions on appeals, and similar actions are discretionary actions but are not usually legislative actions.
- Development Plan approvals are not ordinarily legislative actions. A Development Plan may be a legislative action if it makes major land use changes or prescribes new policy or plan. Although Development Plans are listed as types of legislative approvals subject to voter approval under Measure A96, only those Development Plans that as a matter of law are "legislative actions" may constitutionally be subject to referendum.

- Projects which are determined to be "exempt" from County permits, even if the exemption leads to a change in use or intensity, are administrative actions under California law and are not subject to referendum. Similarly, decisions that a project is entitled to a zoning variance are typically not considered legislative acts. Determinations as to "vested rights" under existing permits are quasi-judicial decisions not subject to referendum.
- Repair and maintenance projects are processed administratively under Article II, Appendix C and do not require legislative approvals.
- Limited Exception Determinations for nonconforming industrial uses granted pursuant to Section 35-161.7 or other similar permits for minor modifications that do not expand or extend the life of an existing facility are not legislative approvals.

2. **Onshore Support Facilities** - Measure A96 voter referenda apply solely to legislative approvals of onshore support facilities, defined in the initiative as: "...any land use, installation, or activity proposed to effectuate or support the exploration, development, production, storage, processing, or other activities related to offshore energy resources."

Onshore support facilities include those which, by their nature, are specific and directly related to offshore oil and gas development, but do not include facilities incidental or indirectly related to onshore support of offshore energy resource activities. The determination of whether a particular facility requiring a legislative approval is incidental or indirect, is subject to a case-by-case review.

- Measure A96 applies to onshore support facilities within the South Coast area, defined as Point Arguello to the Ventura border. Projects north of Point Arguello are not subject to voter referendum, nor are projects within Article IV of the County Zoning Ordinances (Montecito area).
- Measure A96 does not apply to projects within cities or on other lands exempt from the County's Zoning Ordinance pursuant to Article II, Section 35-51.
- Onshore pipeline projects are specifically exempt from Measure A96.
- Onshore support facilities that are located entirely within the existing approved consolidated oil and gas processing sites at Las Flores Canyon or Gaviota are specifically exempt from Measure A96. The approved consolidated oil and gas processing sites for Measure A96 purposes are defined as any and all land within those parcels designated as of June 13, 1995 as APN 81-220-14, 81-230-19 (Las Flores Canyon), or 81-130-07, 81-130-52, and 81-130-53 (Gaviota).

3. Procedures for Implementing Measure A96 - Elections to consider Board-approved projects would occur at the next regular election according to timelines provided in the California Elections Code.

The California Coastal Commission must approve any changes to the Local Coastal Plan or Coastal Zoning Ordinance. Therefore, the order of "actions" on an onshore support facility project that is determined to be subject to Measure A96 would be:

- (1) Board of Supervisors approval;
- (2) Project consideration by the voters of Santa Barbara County;
- (3) Project consideration by the California Coastal Commission.

Under the California Coastal Act, the Coastal Commission can review Board denials of oil and gas projects and may consider amending the County's Coastal Land Use Plan or Coastal Zoning Ordinance if the County elects not to, provided certain findings can be made under Public Resources Code Section 30515. If the voters reject a Board-approved Coastal Plan or Zoning Ordinance amendment of energy facility development, the project proponent may request approval of the amendment by the Coastal Commission. Actions by the California Coastal Commission are not subject to voter approval pursuant to Measure A96.

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