



## CALIFORNIA OCEAN PROTECTION COUNCIL

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Mike Chrisman, Secretary for Resources, Council Chair  
John Chiang, State Controller, State Lands Commission Chair  
Linda Adams, Secretary for Environmental Protection  
Sheila Kuehl, State Senator, Ex officio Member  
Pedro Nava, State Assemblymember, Ex officio Member

### MEMORANDUM

TO: California Ocean Protection Council

FROM: Sam Schuchat, Secretary to the Council

DATE: April 17, 2007

RE: Adoption of Environmental Review Objectives, Criteria and Procedures

ATTACHMENTS: Proposed [Environmental Review Objectives, Criteria and Procedures](#)

### REQUESTED ACTION:

Staff recommends the council approve the following resolution:

“The Ocean Protection Council adopts the attached *Environmental Review Objectives, Criteria and Procedures* for implementing the California Environmental Quality Act.”

### BACKGROUND:

The California Environmental Quality Act, Sections 21000 *et seq.* of the Public Resources Code (“CEQA”) requires every government agency in California to identify the significant environmental effects of projects the agency approves or funds, and requires agencies to mitigate adverse effects of those projects through the adoption of mitigation measures or the selection of feasible alternatives. For purposes of CEQA, a “project” includes the “whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment”, and that either is directly undertaken by any public agency, is undertaken by a person which is supported in whole or in part through public agency contracts, grants, subsidies, loans, or other forms of assistance, or involves the issuance of lease, permit, license or other entitlement for use by one or more public agencies (14 Cal. Code of Regulations §15378(a)).

Section 21082 of the Public Resources Code requires all public agencies to adopt objectives, criteria and specific procedures for implementing CEQA and its concomitant regulations (14 California Code of Regulations §§15000 *et seq.*, known as the “CEQA Guidelines”), which are promulgated by the Secretary for Resources. Adoption may be by ordinance, rule or regulation, and must contain provisions for identifying exempt activities,

conducting initial studies, preparing negative declarations and Environmental Impact Reports, consulting with other agencies and the public, and performing other functions under CEQA. Pursuant to section 15022 of the CEQA Guidelines, an agency may choose to adopt the CEQA Guidelines by reference and add provisions specifically suited to the agency's own activities.

Staff is recommending that the Council adopt the CEQA Guidelines by reference, with additional provisions derived from the Ocean Protection Act and suited to the manner in which the Council operates. The proposed *Environmental Review Objectives, Criteria and Procedures* identify a number of activities carried out or approved by the Council under the Act that may be exempt from CEQA. They would delegate a number of specific responsibilities to staff: to determine whether specific projects are exempt; to prepare and review environmental documents; to analyze and respond to public comments; and to file notices required under CEQA. There are certain agency responsibilities under CEQA that cannot be delegated to staff: reviewing and considering a final EIR or approving a Negative Declaration before approving a project; and making required findings with regard to significant effects identified in a project EIR or Negative Declaration (14 Cal. Code of Regulations §15025).

Should the Council consider approval or funding of a project that is not exempt under the statute or Guidelines, CEQA requires that the Council review the relevant environmental document (EIR or Negative Declaration), along with any comments received on the document. The Council must consider the environmental document prior to reaching a decision to approve or fund the project, and must reach its own conclusion with regard to any potentially significant adverse impacts of the project. Prior to approving a project for which a negative declaration or mitigated negative declaration has been prepared, the Council must find that there is no substantial evidence that the project will have a significant effect on the environment. The Council may not carry out or approve a project for which an EIR has been prepared which identifies one or more significant effects unless it makes one or more written findings for each of those significant effects, and determines either that all significant effects have been eliminated or substantially lessened where feasible, or that any remaining unavoidable significant effects are acceptable due to overriding considerations.

Most of the activities supported by the Council to date have been statutorily or categorically exempt from CEQA; many have required funding authorizations from the Conservancy or other agencies to implement Council policies and directives. As staff to the Council, Conservancy staff has undertaken the review of projects for purposes of CEQA and, in those instances in which action by the Conservancy's governing board is needed to fund the project, presented its findings and recommendations for CEQA compliance to the Conservancy. The proposed *Environmental Review Objectives, Criteria and Procedures* would formally delegate authority to Conservancy staff to perform those functions on behalf of the Council. Should the Council directly fund or undertake projects requiring review, analysis and the adoption of findings pursuant to CEQA in the future, these *Environmental Review Objectives, Criteria and Procedures* will guide staff in the presentation of Council recommendations and support actions the Council would be required to take pursuant to CEQA.