



## MEMORANDUM

**TO:** California Ocean Protection Council

**FROM:** Sam Schuchat, Council Secretary

**DATE:** February 17, 2012

**RE:** **Revised California Ocean Protection Council Meeting Procedures**

**ATTACHMENTS:** [Exhibit 1: Revised OPC Meeting Procedures](#)  
[Exhibit 2: Revised OPC Meeting Procedures, red-line version](#)

### REQUESTED ACTION:

Staff recommends the council approve the following resolution:

“The Ocean Protection Council modifies its February 8, 2007 meeting procedures to read as provided in Meeting Procedures of the Ocean Protection Council, attached to the Secretary’s memorandum as Exhibit 1.”

### BACKGROUND:

The Ocean Protection Council should update its operating documents to reflect the current meeting procedures used by the council. Amended meeting procedures adopted by the council five years ago provided a complex system for appointing council alternates to serve when official members were not able to attend. These procedures were set in place after extensive public comment encouraged the council to adopt procedures that made Cabinet-level appointees attend each council meeting, consistent with an original purpose of the California Ocean Protection Act.<sup>1</sup> However, these procedures are no longer followed and staff recommends that the council revise its procedures to reflect the current procedure, which allows some members’ office to appoint delegates before each meeting, provided the member clearly defines the powers vested in the alternate.

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<sup>1</sup> The California Ocean Protection Council was model on the proposed National Ocean Council, a proposed cabinet-level agency charged with overseeing national management of ocean resources. See U.S. Commission on Ocean Policy, *Final Report, An Ocean Blueprint for the 21<sup>st</sup> Century*, Recommendation 4-2 (2004) (“National Ocean Council...should provide high-level attention to ocean and coastal issues, develop appropriate national policies, and coordinate their implementation by the many federal departments and agencies with ocean and coastal responsibilities.”).

## REVISED MEETING PROCEDURES

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### ANALYSIS

The Ocean Protection Council is composed of the Secretaries of the California Natural Resources and California Environmental Protection Agencies, the current chair of the State Lands Commission, two publicly-appointed members, and two non-voting members from the Assembly and the Senate.<sup>2</sup> The Secretaries and other Executive-branch members may delegate their responsibilities to deputies by statute.<sup>3</sup> The Lieutenant Governor has similar power to delegate.<sup>4</sup> However, the two public members cannot delegate the powers, due to the personal nature of the appointment.<sup>5</sup>

The council can choose how it wishes to conduct meetings and ensure members are authorized to vote on matters before the council. Accordingly, the council can decide how it will treat voting by alternates so long as this procedure does not impinge on the statutory authority of members to delegate their responsibilities before the council.<sup>6</sup> The proposed changes to the meeting procedures allow office-holding members to delegate their powers to a subordinate, provided the council is apprised of the term and powers conferred on the delegate for purposes of council activities. A redlined version of the proposed procedures is provided for council member reference.

The previously-revised procedures also eliminated the ability of the council to hold a meeting with only one member present. This provision was made due to the small number of voting council members at the inception of the council. Since 2006, the membership has expanded and the need no longer exists for extending meeting status to circumstances in which only one member is present. Other changes to the document were made for readability.

### CONCLUSION

The council's operating documents should reflect the current procedures used by the council to conduct its meetings. Because there is currently a discrepancy in the way delegations are treated, staff recommends that the council adopt the changes proposed in the attached document. As an alternative to the proposed revision, the council may wish to simply revoke the meeting procedures and rely on the customary procedures used in public meetings to conduct its affairs.

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<sup>2</sup> Public Resources Code §§35600, 35610

<sup>3</sup> See Gov't Code § 7.

<sup>4</sup> Id § 7.6.

<sup>5</sup> See, e.g. *Marine Forests Soc. v. California Coastal Com'n* (2005) 36 Cal.4th 1, 113 P.3d 1062, 1089 (discussing the gubernatorial and legislative powers of appointment and delegation.).

<sup>6</sup> See *Lavin v. California Horse Racing Bd.* (1997), 66 Cal.Rptr.2d 843 (in the absence of an express statutory directive to the contrary, administrative agency may exercise its discretion in selecting methodology by which it will implement authority granted to it by legislature).