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CALIFORNIA COASTAL COMMISSION

15 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200

MEMORANDUM

June 19, 1997

TO: Commissioners and Interested Persons

FROM: Ralph Faust, Chief Counsel
Dorothy Dickey, Deputy Chief Counsel *DD*
Ann Cheddar, Staff Counsel *ame*

SUBJECT: Public Hearing on Proposed Amendments to the
Commission's Conflict of Interest Code

For Commission Discussion and Possible Action on July 10, 1997

INTRODUCTION

On April 8, 1997, the Commission authorized commencement of a rulemaking proceeding to amend its Conflict of Interest Code. (Exhibit 1.) It took that action because the Fair Political Practices Commission ("FPPC") identified changes necessary to bring the disclosure categories of the Commission's Code into compliance. At the time the Commission acted, the FPPC had identified two specific changes. In light of the breadth of the amendments required by the FPPC, staff also informed the Commission that they would investigate whether to proposed additional changes. The FPPC staff have subsequently identified two additional changes necessary to bring the Commission's Code into compliance with the Political Reform Act. The proposed amendments to the Code (Exhibit 2) incorporate all of the FPPC's recommended changes.

Three other minor changes are also incorporated into the proposed amendments. These changes would update the Code's listing of designated employees. They are proposed as a result of the Political Reform Act's requirements that the Commission update its list of designated employees and file a biennial report with the FPPC indicating whether the Commission needs to amend its Code. This Biennial Report is due this year.

The Commission staff has taken the necessary procedural steps under the applicable section of the California Code of Regulations (Title 2, of the California Code of Regulations, section 18750) to enable the Commission to consider whether to adopt the changes at the July meeting. See Notice of Intention to Amend (Exhibit 3.), and Explanation of Reasons (Exhibit 4.). Staff recommends that the Commission vote to adopt the changes to the Commission's Conflict of Interest Code as proposed in Exhibit 2. The appropriate motion to adopt the changes as proposed by staff appears on page 5.

DISCUSSION

A. Legal Background

As a state agency subject to the Political Reform Act, the Commission is required to adopt a Conflict of Interest Code. (Govt. Code section 87300 et seq.) The Commission has adopted such a Code, which has been incorporated by reference into the Commission's regulations. (Title 14, of the California Code of Regulations, section 13040.) All Conflict of Interest Codes must designate those agency positions which may foreseeably have a material effect on any financial interest. (Govt. Code, section 87302.) Such agency positions are termed "designated positions," while a specific employee working at a designated position is termed a "designated employee." (Govt. Code, sections 82019, 87302.) For each designated position, a Conflict of Interest Code must list the types of investments, interests in real property, and sources of income which are reportable. (Govt. Code section 87302.) An interest is "reportable" if it may foreseeably be materially affected by any decision made, or participated in, by a designated employee. (Govt. Code, section 87302.)

The proposed amendments to the disclosure categories of the Commission's Conflict of Interest Code would affect the staff's disclosure obligations under the Political Reform Act. The proposed amendments would impose disclosure obligations on staff equivalent to the disclosure obligations currently imposed on the Commissioners and the Executive Director.

B. Explanation of Proposed Amendments

The first proposed amendment to the Code's disclosure categories requested by the FPPC would change the definition of jurisdiction for purposes of reporting under the Political Reform Act from the "coastal zone" to the "State of California". The FPPC has opined that the current Code is inconsistent with the Political Reform Act. (See Exhibit 5.) The Commission's current Conflict of Interest Code limits employees' disclosure to income and investments from sources doing business in the Coastal Commission's jurisdiction, and real property which is located in the Commission's jurisdiction or within two miles of the Commission's jurisdiction. The Code goes on to state that the Commission's "jurisdiction" is limited to the coastal zone as provided in Public Resources Code section 30000, et seq. The FPPC has indicated that the Code must be changed because Government Code section 82035 provides that jurisdiction under the Political Reform Act means the state with respect to a state agency. (See Exhibit 5.) Therefore, the FPPC has advised that the Commission's Code must be amended to delete all references to the Commission's "jurisdiction" as well as the reference to Public Resources Code section 30000, et seq. (See Exhibit 5.) The proposed amendments would make specified sources of income (except gifts) and investments reportable throughout the State of California, including the coastal zone.

The second proposed amendment to the Code's disclosure categories requested by the FPPC would require that gifts be disclosed regardless of the location of the source. The Coastal Commission's Conflict of Interest Code currently limits the gifts that must be reported to those received from a source doing business in the Commission's jurisdiction. The FPPC has requested that the Commission amend the regulation to provide that a gift must be reported, regardless of the jurisdiction from which the gift was received. (See Exhibit 5.) The proposed amendments would make statutorily defined gifts reportable from specified sources within as well as outside the State of California.

The third proposed amendment to the Code's disclosure categories requested by the FPPC would amend the Code to include disclosure of gifts or income from any source, regardless if that source is an individual or business entity. The Code as it is presently written only requires disclosure of income from "business entities". The FPPC staff has advised that this change is necessary because the Commission's Code requires more limited reporting than that required under the law. (See Exhibit 6.) The Political Reform Act requires that income be reported from sources that include but are not limited to business entities. Thus, the FPPC staff noted that under the current Code, a Coastal Commission employee could receive gifts or income from an individual who is the subject of a proceeding before the Commission but the gifts or income from the individual would not be reportable under the current Code because the source of the income or gift was not a business entity. In contrast, both individuals and business entities appear before the Commission and the law requires that income or gifts from both be disclosed. The proposed amendments would ensure that statutorily defined income and gifts are disclosed from all sources who appear before the Commission, including business entities.

The fourth proposed amendment to the Code's disclosure categories requested by the FPPC would limit the types of reportable interests to those an employee knows or has reason to know is the subject of a proceeding before the California Coastal Commission. As discussed above, both individuals and entities appear before the Commission and disclosable interests from either source must be reported if located anywhere in the State rather than the coastal zone. Limiting the types of reportable interests to those an employee knows or has reason to know are the subject of a proceeding before the California Coastal Commission is appropriate because interests which are the subject of a proceeding before the California Coastal Commission are the types of interests a designated employee can materially affect. This change is also consistent with language suggested in a May 5, 1997, letter from FPPC staff to Coastal Commission staff. (See Exhibit 6.)

Finally, the proposed amendments would also add additional agency positions to the Code's listing of designated positions and conform a designated employee listing to the title utilized by the Department of Personnel Administration to ensure that all Commission staff positions that are subject to Political Reform Act requirements are designated in the Code. Those positions include: Energy Analyst, Personnel and Information Systems Manager and Staff Counsel III. Although the employees who have held those positions have always been

treated as designated employees because a more general category is used in the Conflict of Interest Code to these positions, it has been determined that these positions should be specifically identified in the Code in order for the Commission to comply fully with the Political Reform Act.

MATERIALS PROVIDED FOR COMMISSION REVIEW

The following exhibits are being transmitted to the Commission attached to this staff report:

Exhibit 1 - Staff report to the Commission to obtain authorization to commence the subject rulemaking

Exhibit 2 - Text of the Proposed Changes to Conflict of Interest Code for the California Coastal Commission

Exhibit 3 - Notice of Intention to Amend the California Coastal Commission's Conflict of Interest Code

Exhibit 4 - Initial Statement of Reasons for Changes to California Coastal Commission Conflict of Interest Code

Exhibit 5 - FPPC letter to Commission dated July 23, 1996

Exhibit 6 - FPPC letter to Commission dated May 5, 1997.

As of the date of this staff report, no comments have been received from members of the public or affected employees. Staff will respond to any comments received from the public or affected employees prior to any Commission action on the proposed amendments.

OPTIONS FOR COMMISSION ACTION

1. Adopt Regulations as Proposed

Hold the public hearing, close the hearing, consider the regulation and vote to adopt the proposed amended regulation. If the Commission adopts the proposed amendments, staff will submit the changes to the Fair Political Practices Commission for approval. Staff would also file a copy of the 1997 Biennial Report with the Fair Political Practices Commission. If approved, the amendments would then be sent on to the Secretary of State for filing. The amendments would become effective 30 days after that filing.

2. Reject Regulations as Proposed

Hold the public hearing, close the hearing, consider the regulation and vote to reject the proposed amended regulation.

3. Modify Regulations In Minor Way(s) and Circulate Change(s) for Public Comment

Hold the public hearing, close the hearing, consider the regulation and vote to modify the proposed regulation in nonsubstantial or minor ways and direct staff to circulate the regulation for public comments as modified by those nonsubstantial or minor changes. The minimum public comment period would be 15 days. The Commission would then hold a public hearing at a future Commission meeting and vote on whether to adopt or reject the regulation as modified.

4. Modify Regulations In A Major Way and Circulate Change(s) for Public Comment

Hold the public hearing, close the hearing, consider the regulation and vote to modify the proposed regulation in a substantial or major way and direct staff to circulate the regulation for public comment as modified by the substantial or major change. Staff would submit a new notice to OAL and OAL would publish the notice, which would commence a new 45 day comment period. The Commission would then hold a public hearing at a future meeting and vote on whether to adopt or reject the regulations as modified.

STAFF RECOMMENDATION

The staff recommends that the Commission follow the first option identified and vote to adopt the changes as proposed. The staff recommends that the Commission adopt the following resolution:

Resolution:

The Commission hereby adopts the proposed amendments to the Commission's Conflict of Interest Code. No alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to private persons than the proposed action.

MOTION

The appropriate motion for adoption is "I move that the Commission adopt the proposed amendments to the Commission's Conflict of Interest Code."

Staff recommends a YES vote. A majority of the Commissioners present is required to pass the motion. Approval of the motion means the amendments have been adopted as proposed.

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
AND TDD (415) 904-5200



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MEMORANDUM

DATE: ~~March~~ *April* 20, 1997

TO: Commissioners and Interested Persons

FROM: Ralph Faust, *Chief Counsel*
Dorothy Dickey, Deputy Chief Counsel *DD*
Ann Cheddar, Staff Counsel

SUBJECT: **Commission Authorization to Commence the Process to Amend the Commission's Conflict of Interest Code**

EXHIBIT NO. 1
APPLICATION NO.
Commission Authorization
to Commence the Process
to Amend the Commission's
Conflict of Int. Code
California Coastal Commission

SUMMARY:

On July 19, 1996, the Fair Political Practices Commission ("FPPC") approved amendments to the Commission's Conflict of Interest Code contingent on the Commission's submittal within one year of another amendment package to address further changes identified by the FPPC. On September 11, 1996, the Commission acknowledged that the FPPC's approval was contingent on the Commission's commitment to adopt and submit those additional changes. Staff now requests the Commission's authorization to begin a process to amend the Commission's Conflict of Interest Code as required by the FPPC and previously acknowledged by the Commission.

The proposed amendments to the disclosure categories of the Commission's Conflict of Interest Code would affect the staff's disclosure obligations under the Political Reform Act (Government Code, section 81000, *et seq.*). (Commissioners and the Executive Director would not be affected by the proposed changes because their disclosure requirements are set forth by statute, rather than in the Code, and already require disclosure from all sources regardless of location.) The FPPC has requested that the Commission make two changes in order to bring the Code into compliance with the FPPC's current interpretation of the Political Reform Act. First, the FPPC has required that the Commission revise its Conflict of Interest Code to provide that gifts must be reported regardless of the geographic location of the source of the gift. The second change mandated by the FPPC is that investments, income, real estate, and business positions must be reported if located anywhere in the state, rather than in the coastal zone as is currently provided in the Code. In light of the breadth of the amendments required by the FPPC, the staff is investigating whether to propose additional changes to limit the gifts that a designated employee must report by limiting the types of sources that would be reportable.

DISCUSSION:

As a state agency subject to the Political Reform Act, the Commission is required to adopt a Conflict of Interest Code. (Govt. Code, section 87300, *et. seq.*) The Commission has adopted such a Code, which has been incorporated by reference into the Commission's regulations. (14 Cal. Code Regs., section 13040.) All Conflict of Interest Codes must designate those agency positions which involve the making of, or participation in the making of decisions which may foreseeably have a material effect on any financial interest. (Govt. Code, section 87302.) Such agency positions are termed "designated positions," while a specific employee working at a designated position is termed a "designated employee." (Govt. Code, sections 82019 and 87302.) These individuals are required to file statements of economic interests and to disqualify themselves when conflicts of interest occur. The agency's Conflict of Interest Code also specifies the types of personal economic interests that designated employees must disclose on their statement of economic interests. The Commission's current disclosure categories are attached. (Attachment A.)

Disclosure Category b(1) of the Coastal Commission's Conflict of Interest Code requires, in part, that a gift be reported by a designated employee if it is received from a source doing business in the Commission's jurisdiction. It states:

Income, including a gift, is reportable only if it is received from a source doing business within the Commission's jurisdiction, planning on doing business within the Commission's jurisdiction or has done business within the Commission's jurisdiction during the two years prior to the time any statement is required under this code. [Emphasis added.]

However, the Government Code generally prohibits a designated employee from accepting most gifts over \$290.00 if they are reportable under the agency's Conflict of Interest Code, and provides that the agency's code must require that gifts be reported, regardless of the jurisdiction from which the gift was received. (Govt. Code, sections 89503, 82028, and 82030.) The FPPC has advised that the phrase "including a gift" in Disclosure Category b(1) must be removed because the law makes no provision for limiting the reporting or receipt of gifts by jurisdictional boundaries. The proposed amendments would delete the phrase "including a gift" and make statutorily defined gifts reportable from specified sources within as well as outside the State of California.

In addition, Disclosure Category b indicates that disclosure is restricted to investments in entities and income from sources located in or doing business in the Coastal Commission's jurisdiction, and real property which is located in the Commission's jurisdiction or within two miles of the Commission's jurisdiction. (See Attachment A.) The code goes on to state that the Commission's "jurisdiction" is limited to the coastal zone as provided in Public Resources Code section 30000, *et seq.* However, Government Code section 82035 provides that jurisdiction under the Political Reform Act means the state with respect to a state agency. Therefore, the FPPC has advised that the Commission's code must be amended to delete all references to the Commission's "jurisdiction" as well as the reference to Public Resources Code section 30000, *et seq.* The

proposed amendments would make specified sources of income (except gifts) reportable throughout the State of California, including the coastal zone.

PROCEDURE:

If the Commission directs the staff to commence the amendment process, the staff would submit to the Office of Administrative Law a copy of the notice of the proposed amendments. Staff would also file a copy of the 1997 Biennial Report and notice of the proposed regulation changes with the Fair Political Practices Commission. Copies of the notice and the proposed amendments would also be distributed to all affected Commission staff. Following a public comment period of at least 45 days, the staff would bring the proposed amendments back to the Commission for adoption. After Commission adoption of the amendments, the amendments would be sent to the FPPC for approval. The amendments would then be sent on to the Secretary of State for filing. The amendments would become effective 30 days after that filing.

The Commission is required to review its Conflict of Interest Code every other year and file a biennial report with the FPPC indicating whether its code needs amending. If the Commission authorizes the commencement of rulemaking, staff will file the 1997 Biennial Report with the FPPC acknowledging that the Conflict of Interest Code will be amended within 90 days as described above to (1) conform the geographic scope of reporting requirements to the FPPC's current interpretation of the law and (2) clarify the sources of gifts which a designated employee would be required to report on a Statement of Economic Interest form.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

Resolution:

The Commission hereby directs the staff to commence a process to amend the Commission's Conflict of Interest Code.


Attachment

conflict.doc

CONFLICT OF INTEREST CODE FOR THE CALIFORNIA COASTAL COMMISSION

The Political Reform Act (Govt. Code, section 81000, *et seq.*) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. section 18730) which contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of Title 2 of the California Code of Regulations section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the **CALIFORNIA COASTAL COMMISSION**.

Designated employees shall file their statements with the **CALIFORNIA COASTAL COMMISSION** who will make the statements available for public inspection and reproduction. (Gov. Code, section 81008.) Upon receipt of the statement(s) of the **COMMISSION MEMBER ALTERNATES AND THE EXECUTIVE DIRECTOR** the agency shall make and retain a copy and forward the original of these statement(s) to the Fair Political Practices Commission. Statements for all other designated employees will be retained by the agency.

EXHIBIT NO. A
APPLICATION NO. CURRENT CCC
CONFLICT OF INTEREST CODE
 California Coastal Commission

APPENDIX A

Designated positions:

Disclosure Category:

Commission Members

*

Alternate Commission Members
Executive Director

a

Chief Deputy Director
Deputy Director
District Director
Deputy Director for Land Use
Assistant Deputy Director for Land Use
Chief Counsel
Senior Staff Counsel
Staff Counsel
Legal Counsel
Graduate Legal Assistant
Senior Engineer
Associate Civil Engineer
Geologist
Biologist
Coastal Program Manager
Coastal Program Analyst I, II, III
Environmental Specialist I, II, III and IV
Graduate Student Assistant
Intern
Student Assistant

b

Contracts and Grants Coordinator
Contracts and Grants Manager
Chief of Administrative Services
Information Officer
Librarian

c

Consultant or Special Project Employee

d

*Persons in this category report pursuant to Article 2, Chapter 7 of the Political Reform Act of 1974. These positions appear in this conflict of interest code on an informational basis only; additional disclosure is not required by the Coastal Commission Members.

APPENDIX B DISCLOSURE CATEGORIES

- a. Persons in this category shall report all sources of income, interests in real property, and investments and business positions in business entities.
- b. Persons in this category shall report all investments, business positions, interests in real property, and sources of income with any business entity subject to the following limitations:
 - (1) Income, including a gift, is reportable only if it is received from a source doing business within the Commission's jurisdiction, planning on doing business within the Commission's jurisdiction, or has done business within the Commission's jurisdiction during the two years prior to the time any statement is required under this code.
 - (2) An interest in real property is reportable only if property or any part of it is located within or not more than two miles outside the boundaries of the Commission's jurisdiction.
 - (3) Investments are reportable only if the business entity has an interest in real property in the Commission's jurisdiction, or does business, or plans to do business in the Commission's jurisdiction at any time during the two years prior to the time any statement is required under this code.
 - (4) Business entities are reportable for purposes of business position disclosure, only if the business is doing business, or plans to do business in the Commission's jurisdiction at any time during the two years prior to the time any statement is required under this code.
- c. Persons in this category shall disclose any investment, and business position, in a business entity or income from a source which is of the type that contracts with the Coastal Commission to provide goods, services, materials or facilities to the Coastal Commission.
- d. Persons in this category are considered designated employees. They are bound by the disclosure and disqualification requirements of this code. The Executive Director, however, may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code. Nothing herein excuses any such consultant from any other provision of this code.

EXCEPTION TO DEFINITION OF "JURISDICTION" CONTAINED IN THE
POLITICAL REFORM ACT:

"Jurisdiction" is limited to the Coastal Zone as described in Public Resources Code
Section 30000, *et seq.*

NOTE: Authority cited: Section 30333, Public Resources Code, Section 87306,
Government Code.

Reference: Sections 87300-87302, Section 87306, Government Code.

This is the last page of the conflict of interest code for California Coastal Commission.



CERTIFICATION OF FPPC APPROVAL

Pursuant to Government Code Section 87303, the conflict of interest code for the California Coastal Commission was approved on July 19, 1996.

A handwritten signature in dark ink, appearing to read "Steve Churchwell", is written over a horizontal line.

Steven G. Churchwell
General Counsel
Fair Political Practices Commission

Pursuant to Government Code Section 11346.2:

Secretary of State filing date: _____

Effective: _____

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
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AND TDD (415) 904-5200

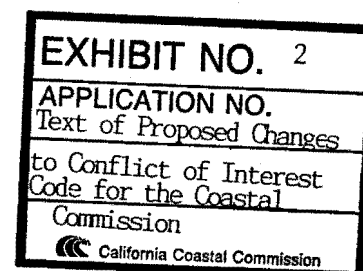


**TEXT OF PROPOSED CHANGES TO
CONFLICT OF INTEREST CODE FOR THE
CALIFORNIA COASTAL COMMISSION**

Amend section 13040 as follows, section 13040 General Provisions (additions are shown in underline, and deletions are shown in ~~strikeout~~.)

The Political Reform Act (Govt. Code, section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. section 18730) which contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of Title 2 of the California Code of Regulations section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the **CALIFORNIA COASTAL COMMISSION**.

Designated employees shall file their statements with the **CALIFORNIA COASTAL COMMISSION** who will make the statements available for public inspection and reproduction. (Gov. Code, section 81008.) Upon receipt of the statement(s) of the **COMMISSION MEMBER ALTERNATES AND THE EXECUTIVE DIRECTOR** the agency shall make and retain a copy and forward the original of these statement(s) to the Fair Political Practices Commission. Statements for all other designated employees will be retained by the agency.



APPENDIX A

Designated positions:

Disclosure Category:

Commission Members

*

Alternate Commission Members

a

Executive Director

Chief Deputy Director

b

Deputy Director

District Director

Deputy Director for Land Use

Assistant Deputy Director for Land Use

Chief Counsel

~~Senior~~ Staff Counsel III

Staff Counsel

Legal Counsel

Graduate Legal Assistant

Senior Engineer

Associate Civil Engineer

Geologist

Biologist

Coastal Program Manager

Coastal Program Analyst I, II, III

Environmental Specialist I, II, III and IV

Energy Analyst

Graduate Student Assistant

Intern

Student Assistant

Contracts and Grants Coordinator

c

Contracts and Grants Manager

Chief of Administrative Services

Personnel & Information Systems Manager

Information Officer

Librarian

Consultant or Special Project Employee

d

*Persons in this category report pursuant to Article 2, Chapter 7 of the Political Reform Act of 1974. These positions appear in this conflict of interest code on an informational basis only; additional disclosure is not required by the Coastal Commission Members.

APPENDIX B DISCLOSURE CATEGORIES

- a. Persons in this category shall report all sources of income, including gifts, interests in real property, and investments and business positions in business entities.
- b. Persons in this category shall report all investments, or business positions, ~~interests in real property, and sources of income with in~~ any business entity, all interests in real property, and all sources of income, including gifts, which the person knows or has reason to know is the subject of a proceeding before the California Coastal Commission, and subject to the following limitations:
 - (1) Income, not including a gift, is reportable only if it is received from a source in or doing business within the ~~Commission's jurisdiction~~ California, planning on doing business within the ~~Commission's jurisdiction~~ California, or has done business within the ~~Commission's jurisdiction~~ California during the two years prior to the time any statement is required under this code.
 - (2) A gift is reportable regardless of the location of the source.
 - (2) (3) An interest in real property is reportable only if property or any part of it is located within ~~or not more than two miles outside the boundaries of the Commission's jurisdiction~~ the State of California.
 - (3) (4) Investments are reportable only if the business entity has an interest in real property in the ~~Commission's jurisdiction~~ State of California, or does business, or plans to do business in the ~~Commission's jurisdiction~~ State of California at any time during the two years prior to the time any statement is required under this code.
 - (4) (5) Business entities are reportable for purposes of business position disclosure, only if the business is doing business, or plans to do business in the ~~Commission's jurisdiction~~ State of California at any time during the two years prior to the time any statement is required under this code.
- c. Persons in this category shall disclose any investment, ~~and or~~ business position in a business entity or income, including gifts, from a source which is of the type that contracts with the Coastal Commission to provide goods, services, materials or facilities to the Coastal Commission.
- d. Persons in this category are considered designated employees. They are bound by the disclosure and disqualification requirements of this code. The Executive Director, however, may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's

duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code. Nothing herein excuses any such consultant from any other provision of this code.

~~EXCEPTION TO DEFINITION OF "JURISDICTION" CONTAINED IN THE
POLITICAL REFORM ACT:~~

~~"Jurisdiction" is limited to the Coastal Zone as described in Public Resources Code
Section 30000, et seq.~~

NOTE: Authority cited: Section 30333, Public Resources Code; Section 87306,
Government Code.

Reference: Sections 87300-87302 and 87306, Government Code.

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
TELEPHONE AND TDD (415) 904-5200



**NOTICE OF INTENTION TO AMEND THE
CALIFORNIA COASTAL COMMISSION'S CONFLICT OF INTEREST CODE**

NOTICE IS HEREBY GIVEN that the **CALIFORNIA COASTAL COMMISSION** intends to amend its conflict of interest code--referenced at Title 14, Section 13040 of the California Code of Regulations--pursuant to Government Code Section 87306. Pursuant to Government Code Sections 87300-87302, the amended conflict of interest code will designate employees who must disclose certain investments, income, interests in real property and business positions, and who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests.

A written comment period has been established commencing on May 23, 1997 and terminating on July 10, 1997. A public hearing is scheduled as part of the Commission's regular meeting on July 10, 1997 at the Holiday Inn-Ventura 450 East Harbor Boulevard, Ventura, CA 93001. The meeting will commence at 9 a.m., however, the hearing on this matter may not be the first agenda item to be heard. Interested persons may comment orally about the proposed changes at the hearing or may submit written comments concerning the proposed code amendments to the **CALIFORNIA COASTAL COMMISSION, LEGAL DIVISION, 45 FREMONT STREET, SUITE 2000, SAN FRANCISCO, CA 94105-2219** before 4 p.m. on the day before the hearing. Written comments may also be submitted to the Commission on the day of the hearing at the meeting prior to the Commission's consideration of the matter. It is requested, but not required, that written comments be mailed so that they are received no later than three (3) working days prior to the date of the public hearing. It is requested, but not required, that persons who submit written comments to the Commission at the hearing provide twenty (20) copies of such comments. This will ensure that each commissioner will receive a copy.

INFORMATIVE DIGEST

The Commission is proposing to amend its conflict of interest code pursuant to Government Code section 87306. As required by Government Code section 87302, the amended Code will designate individuals who must disclose certain investments, income, interests in real property and business positions, and who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests.

EXHIBIT NO.	3
APPLICATION NO.	
Notice of Intention to	
Amend the Coastal Comm'n	
Conflict of Interest Code	
California Coastal Commission	

All Commissioners, alternates, and currently designated staff remain subject to the Code and must continue to file disclosure statements. The proposed amendments would affect the Commission staff's disclosure obligations under the Political Reform Act. Specifically, the proposed amendments would:

- (1) change the definition of "jurisdiction" for the purposes of disclosure from the "coastal zone" to the "State of California";
- (2) require that reportable gifts be disclosed regardless of the location of the source;
- (3) require that reportable income, including gifts, be reported from all types of sources, including business entities;
- (4) limit the disclosure of reportable interests to those subject to the regulatory or permit authority of the Coastal Commission;
- (5) add the positions of Energy Analyst and Personnel & Information Systems Manager to the list of designated employees; and
- (6) conform a designated employee listing to the title utilized by the Department of Personnel Administration.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT

The **CALIFORNIA COASTAL COMMISSION** has prepared a written explanation of the reasons for the designations and the disclosure responsibilities and has available all of the information upon which its proposal is based. Copies of the proposed code amendments and all of the information upon which it is based may be obtained from the **CALIFORNIA COASTAL COMMISSION, LEGAL DIVISION, 45 FREMONT STREET, SUITE 2000, SAN FRANCISCO, CA 94105-2219**. Any inquiries concerning the proposed code amendments should be directed to **ANN CHEDDAR** at (415) 904-5220.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the comment period, the **CALIFORNIA COASTAL COMMISSION** may adopt the proposed regulations substantially as described in this notice. If modifications are made which substantially change the originally proposed text, the modified text with changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the **CALIFORNIA COASTAL COMMISSION** adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of **ANN CHEDDAR** at the address indicated above. The **CALIFORNIA COASTAL COMMISSION** will accept written comments on any modified regulations for 15 days after the date on which any modified regulations are made available.

If the proposed regulations are not significantly modified, the **CALIFORNIA COASTAL COMMISSION** may adopt the proposed amendments to regulations substantially as described above.

AUTHORITY AND REFERENCE

The authority for this action is Government Code section 87306 and Public Resources Code section 30333. Reference: Government Code sections 87300-87302, and 87306.

ALTERNATIVES

The **CALIFORNIA COASTAL COMMISSION** must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

COST TO GOVERNMENTAL AGENCIES AND SCHOOL DISTRICTS

The proposed amendments will not impose a cost or savings on any State agency, local agency, or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of the Government Code; will not result in any non-discretionary cost or savings to local agencies; will not result in any cost or savings in federal funding to the state; and will not impose a mandate on local agencies or school districts.

EFFECT ON HOUSING COSTS AND SMALL BUSINESSES

The adoption, amendment or repeal of the proposed regulation will have no significant effect on housing costs or on private persons, businesses, or small businesses.

May 23, 1997

PETER M. DOUGLAS
Executive Director

a:conflict97/confamd1.doc (2-5)

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
TELEPHONE AND TDD (415) 904-5200



**INITIAL STATEMENT OF REASONS FOR
CHANGES TO CALIFORNIA COASTAL COMMISSION
CONFLICT OF INTEREST CODE
(Prepared for comment period commencing
May 13, 1997 and ending July 10, 1997)**

The Commission is proposing to amend its Conflict of Interest Code. The proposed amendments would affect the Commission staff's disclosure obligations under the Political Reform Act. Specifically, the proposed amendments would:

- (1) change the definition of "jurisdiction" for the purposes of disclosure from the "coastal zone" to the "State of California";
- (2) require that reportable gifts be disclosed regardless of the location of the source;
- (3) require that reportable income, including gifts, be reported from all types of sources, including business entities;
- (4) limit the disclosure of reportable interests to those subject to the regulatory or permit authority of the Coastal Commission;
- (5) add the positions of Energy Analyst and Personnel & Information Systems Manager to the list of designated employees; and
- (6) conform a designated employee listing to the title utilized by the Department of Personnel Administration.

First, the Commission proposes to change the definition of jurisdiction for purposes of disclosure under the Political Reform Act from the "coastal zone" to the "State of California". The Commission is undertaking this amendment at the request of the Fair Political Practices Commission ("FPPC"). Disclosure Category "b" of the Commission's current Conflict of Interest Code limits disclosure of investments in entities and income from sources doing business in the Coastal Commission's jurisdiction, and real property which is located in the Commission's jurisdiction or within two miles of the Commission's jurisdiction. The Code goes on to state that the Commission's "jurisdiction" is limited to the coastal zone as provided in Public Resources Code section 30000, et seq. The FPPC has indicated that the Code must be changed because

EXHIBIT NO. 4
APPLICATION NO.
<u>Initial Statement of</u>
<u>Reasons for Changes to</u>
<u>Coastal Comm'n Conflict of</u>
<u>Interest Code</u>
California Coastal Commission

Government Code section 82035 provides that jurisdiction under the Political Reform Act means the state with respect to a state agency. Therefore, the FPPC has advised that the Commission's Code must be amended to delete all references to the Commission's "jurisdiction" as well as the reference to Public Resources Code section 30000, et seq. The proposed amendments would make specified sources of income (except gifts) reportable throughout the State of California, including the coastal zone.

Second, the Commission also proposes to require that gifts be disclosed regardless of the location of the source. Disclosure Category b(1) of the Coastal Commission's Conflict of Interest Code limits the gifts that must be reported to those received from a source doing business in the Commission's jurisdiction. The FPPC has requested that the Commission amend the regulation to provide that a gift must be reported, regardless of the jurisdiction from which the gift was received. The FPPC has advised that the phrase "including a gift" in Disclosure Category b(1) must be removed because the law makes no provision for limiting the reporting or receipt of gifts by jurisdictional boundaries. (See Govt. Code, sections 82028 and 82030.) The proposed amendments would delete the phrase "including a gift" and make statutorily defined gifts reportable from specified sources within as well as outside the State of California.

Third, the Coastal Commission proposes to amend Category "b" to include disclosure of gifts or income from any source, regardless if that source is an individual or business entity. Category "b" as it is presently written only requires disclosure of income from "business entities" or financial interests in "business entities." The FPPC staff has requested that the Commission make this change because a Coastal Commission employee could receive gifts or income from an individual who is the subject of a proceeding before the Commission but those gifts would not be reportable under the current Code. Both individuals and business entities appear before the Commission. Since the decisions of designated employee could foreseeably have a material effect on the financial interests of either business entities and individuals, the disclosure of income from both individuals and business entities will be required.

As discussed above, currently the Commission requires the disclosure of income from business entities in the coastal zone. As also discussed above, both individuals and entities appear before the Commission and disclosable interests from either source must be reported if located anywhere in the State rather than the coastal zone. Given the breadth of these above-mandated changes, the Commission is also proposing to limit the types of reportable interests to those an employee knows or has reason to know is the subject of a proceeding before the California Coastal Commission. Limiting the types of

reportable interests to those an employee knows or has reason to know are the subject of a proceeding before the California Coastal Commission is appropriate because interests which are the subject of a proceeding before the California Coastal Commission are the types of interests a designated employee can materially affect. This change is also consistent with language suggested in a May 5, 1997, letter from FPPC staff to Coastal Commission staff.

The Commission is also proposing to add the positions of Energy Analyst and Personnel and Information Systems Analyst to its existing list of designated positions. The Energy Analyst and Personnel and Information Systems Manager positions are being proposed for addition to the Code because it has been determined that these two positions should be identified in order to achieve full compliance with the Political Reform Act. The Political Reform Act specifically requires that an agency's Conflict of Interest Code shall specifically enumerate each of the positions within the Commission which involve the making of decisions which may foreseeably have a material financial interest. Since the Commission last reviewed its Code, these two new positions have been added which involve the making of decisions which may foreseeably have a material financial effect on any financial interest. The Energy Analyst is proposed to be added to Disclosure Category "b" so that the analyst must disclose all reportable interests from any source he or she knows or has reason to know is the subject of a proceeding before the California Coastal Commission. The Personnel and Information Systems Manager is proposed to be added to Disclosure Category "c" so that the Manager must disclose all reportable interests from a source which contracts with the California Coastal Commission to provide goods and services. These disclosure categories have been chosen because, given the job responsibilities associated with each of these positions, these disclosure categories identify the types of reportable interests that the respective designated employee can materially affect.

Finally, Senior Staff Counsel, a position already designated under the existing Code has been retitled to Staff Counsel III. A change is proposed to retitle the position to conform to the title utilized by the Department of Personnel Administration.

USE OF SPECIFIC TECHNOLOGIES

Amendment of the regulations will not mandate the use of specific technologies or equipment.

IMPACT ON SMALL BUSINESSES

Amendment of the regulations will not have a significant adverse economic impact on business, including the ability of California businesses to compete with businesses in other states.

CONSIDERATION OF ALTERNATIVES

The Commission has not considered any alternatives to the proposed regulatory change. Thus, no other alternative considered by the Commission would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

DOCUMENTS RELIED UPON

There are no documents relied upon.

RAVI MEHTA
CHAIRMAN



JUL 25 1996
CALIFORNIA
FPPC

FAIR POLITICAL PRACTICES COMMISSION

July 23, 1996

Mr. Ralph Faust, Chief Counsel
California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, CA 94105

EXHIBIT NO. 5
APPLICATION NO. FPPC Letter to Commission
dated July 23, 1996
California Coastal Commission

Re: Amended Conflict of Interest
Code for the California Coastal
Commission

Dear Mr. Faust:

Enclosed is the amended conflict of interest code for the California Coastal Commission as approved by the Fair Political Practices Commission on July 19, 1996. We accepted your amendment as submitted. However, as a condition of approval we are requiring that your agency submit another amendment within one year to make additional changes.

A copy of the code containing the FPPC approval stamp must be filed with the Office of Administrative Law (OAL) within 30 days. A rulemaking file is not required with a conflict of interest code. An agency needs to indicate on the fact sheet that it is transmitting a code for publication only. A copy of a face sheet (standard Form 400) with the appropriate notation is enclosed for your convenience.

Once a copy endorsed by the Secretary of State's office has been returned to you by OAL, prepare a clean copy of your code, removing all ~~strikeout~~ and underscored items and return to FPPC. Please include the date your code was filed with the Secretary of State's office. The code will become effective on the 30th days after the code is filed with the Secretary of State's office.

All newly designated employees must file Form 730 within 30 days of the effective date of the code.

Enclosed is a copy of Regulation 18730 which has been incorporated as the body of the agency's conflict of interest code and a supply of statements of economic interests, Form 730.

We are requiring your agency to submit another amendment within one year to delete any reference to jurisdiction for the reporting of gifts as well as any references to the Commission's "jurisdiction."

Disclosure Category b(1) of the Coastal Commission's conflict of interest code states:

Income, including a gift, is reportable only if it is received from a source doing business within the Commission's jurisdiction, planning on doing business within the Commission's jurisdiction, or has done business within the Commission's jurisdiction during the two years prior to the time any statement is required under this code.

However, Government Code Section 82030 states:

..."Income" other than a gift, does not include income received from any source outside the jurisdiction and not doing business within the jurisdiction, not planning to do business within the jurisdiction, or not having done business within the jurisdiction during the two years prior to the time any statement or other action is required under this title....

Emphasis added.

The phrase "including a gift" in Disclosure Category b(1) must be removed because the law makes no provision for limiting the reporting of gifts by jurisdictional boundaries.

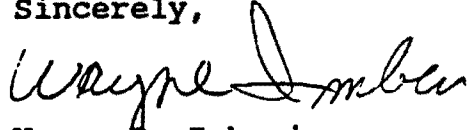
In addition, Disclosure Category b indicates that disclosure is restricted to investments in entities and income from sources located in or doing business in the Coastal Commission's jurisdiction, and real property which is located in the Commission's jurisdiction or within two miles of the Commission's jurisdiction. The code goes on to state that the Commission's "jurisdiction" is limited to the coastal zone as provided in Resources Code Section 30000 et seq.

However, Government Code Section 82035 provides that jurisdiction under the Political Reform Act means the state with respect to a state agency. Therefore, your code must be amended to delete all references to the Commission's "jurisdiction" as well as the reference to Resources Code Section 3000.

Faust, Ralph
Page 3

If you have additional questions, please contact me at (916)
322-5662.

Sincerely,

A handwritten signature in cursive script, appearing to read "Wayne P. Imberi".

Wayne P. Imberi
Political Reform Consultant

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

May 5, 1997

Ann Cheddar, Staff Counsel
California Coastal Commission
45 Fremont, Suite 2000
San Francisco, California 94105-2219

Re: Conflict-of-Interest Code for the
California Coastal Commission


Dear Ms. Cheddar:

Thank you for giving me an opportunity to review the proposed revision to the conflict-of-interest code for the California Coastal Commission. By conducting such a cursory review, we can rectify or clarify controversial provisions prior to the time the code goes to public notice and review. Such a review also speeds up our review process when the code is finally adopted by the Coastal Commission.

During the review of the code, specifically Disclosure Category "b," a question arose concerning the disclosure of income or gifts from persons who may have an appeal pending before the Commission or who may be the applicant of a permit, or may be the subject of any other proceeding before the Commission. Category "b" as it is presently written only requires disclosure of financial interests in "business entities." This could be an issue of concern should a Coastal Commission employee receive gifts or income from a person who is the subject of a proceeding before the Commission.

It is suggested that since the Coastal Commission is currently in the process of amending its code, that category "b" be amended to read:

"Persons in this category shall report all interests in real property, as well as investments and business positions in any business entity, and income from any source which the designated employee knows or has reason to know is the subject of any proceeding before the California Coastal Commission, including but not limited to any regulatory or permit process."

EXHIBIT NO. 6
APPLICATION NO. FPPC Letter to Commission
dated May 5, 1997
 California Coastal Commission

May 5, 1997
Page 2

If this proposed language is amended into Category "b," not only would the Coastal Commission be aware of any potential conflict to enable it to take action to recuse the employee, but it would also remind the employee to recuse him or herself from participating in discussions or decisions which would affect a source of income.

Thank you for giving me an opportunity to review your code. If there is anything further I can do, please do not hesitate to give me a call at (916) 322-5660.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jeanette E. Turvill".

Jeanette E. Turvill
Political Reform Consultant
Technical Assistance Division

JET/jt