



CALIFORNIA OCEAN PROTECTION COUNCIL

Mike Chrisman, *Secretary for Resources, Council Chair*
Cruz Bustamante, *Lieutenant Governor*
Alan Lloyd, *Secretary for Environmental Protection*
Sheila Kuehl, *State Senator, Ex officio Member*
Pedro Nava, *State Assemblymember, Ex officio Member*

MEMORANDUM

TO: Council Members

FROM: Jonathon Gurish, Staff Counsel, State Coastal Conservancy

DATE: January 13, 2006

SUBJECT: Consideration of the adoption of a Conflict of Interest Code for the California Ocean Protection Council and Related Staff

Requested Action

Staff recommends the California Ocean Protection Council adopt the proposed Conflict of Interest Code and authorize the Secretary to take actions needed to provide for approval by the Fair Political Practices Commission and its implementation.

Background

Any state officer involved in making, participating in making, or influencing a governmental decision is subject to the financial disclosure requirements of the Fair Political Practices Act. (Gov't Code § 87100). The purpose of financial disclosure is to alert public officials to personal interests that might be affected while they are performing their official duties, i.e., making governmental decisions. Disclosure also helps inform the public about potential conflicts of interest.

The types of disclosures are dependent upon the types of decisions made but typically include: investments in business entities (e.g., stock holdings, owning a business, a partnership); interests in real estate (real property); sources of personal income, including gifts, loans and travel payments; and positions of management or employment with business entities that could affect the decision these individuals may make.

Each state agency must adopt a conflict of interest code tailoring the disclosure requirements for each position within the agency to the types of governmental decisions a person holding that position would make. (Gov't Code § 87302). For example, an employee who approves or develops grants for ocean-related projects should be required to disclose investments, but may not be required to disclose interests that cannot be affected by the grant making decision. (See Gov't Code §§ 87301 and 87302.) Council officers/members and staff are required to avoid conflicts of interest as defined by law. The Council can

determine which interests; geographical locations, etc. are relevant to those determinations.

The conflict of interest requirements also contain requirements with respect to disqualification in participating in matters which will have a material financial affect on the council member's or an employee's financial interests or those of his or her immediate family. It also requires disclosure of gifts in excess of \$50 and restriction on acceptance of gifts in excess of \$360. (2 Cal. Code Regs. 18730).

The Proposed Conflict of Interest Code

The proposed conflict of interest code requires broad disclosure for persons involved in the development, endorsement and approval of projects. These persons are required to disclose interests in real property, interests in real estate, brokerage or construction related activities and all investments and sources of income in maritime shipping, energy (such as oil and gas), fishing, marine aquaculture, scientific research, pharmaceuticals, ocean recreational activities and companies that engage in environmental planning, real estate investment or construction. In addition these individuals must disclose interests any investment in a business entity or income from a source which is of the type that contracts with the Council to provide goods, services, materials or facilities to the Council. The requirements for disclosure of gifts and services in excess of \$50 are also included by reference to 2 Cal. Code Regs. 18730 in the proposed code.

Council members and staff will make these financial disclosures on their annual Form 700 filings. Persons filing Form 700 disclosure forms in connection with their other employment can also indicate that they are disclosing for purposes of their work for the Ocean Protection Council.

CONFLICT-OF-INTEREST CODE FOR THE OCEAN PROTECTION COUNCIL and STAFF

Adoption of Code

The Political Reform Act (Government Code § 8100, *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. §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, the code may be amended by the Fair Political Practices Commission to conform to legislative and regulatory amendments in the Political Reform law. Therefore, the terms of 2 California Code of Regulations § 18730 and any amendments 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 Ocean Protection Council.

Council members and their alternates shall file their statements with the Fair Political Practices Commission. Designated employees shall file their statements with the State Coastal Conservancy, as staff to the Ocean Protection Council, which will make the statements available for public inspection and reproduction.

Disclosure Categories

(a) Persons in Category (a) must disclose:

- (1) All investments and sources of income in maritime shipping, energy (such as oil and gas), fishing, marine aquaculture, scientific research, pharmaceuticals, ocean recreational activities and companies that engage in environmental planning, real estate investment or construction.
- (2) All interests in real property in the State of California.
- (3) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management which is in the real estate sales, brokerage, development or construction industry.

(b) Persons in Category (b) shall disclose any investment in a business entity or income from a source which is of the type that contracts with the Council to provide goods, services, materials or facilities to the Council.

Conflict-of-Interest Code
Ocean Protection Council

The Secretary of the Council may determine in writing that a particular consultant, although a "designated person, is hired to perform a range of duties that is limited in scope and thus is not required to comply with the disclosure requirements described in Category (a). Such a determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Secretary to the Council'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.

Authority: Gov. Code §§ 87300 and 87304
Reference: Gov. Code §§ 87300, *et seq.*

APPENDIX

Designated Employees

Council Members¹

Deputy Secretary for Coastal and Ocean Policy

Secretary to the Ocean Protection Council

Staff Counsel

Marine Policy Analyst

Conservancy/Council Project Development Analyst

Consultants

Disclosure Category

a, b

a, b

a, b

a, b

a, b

a, b

The Secretary of the Council may determine if disclosure requirements described in Category (a) are required.

¹ The Lieutenant Governor and members of the Legislature must disclose pursuant to Gov. Code section 87200, *et seq.*, rather than the provisions of this Code.