

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR PROPOSED REGULATORY ACTION

Add Section 782.1
Title 14, California Code of Regulations
Re: Conflict of Interest Code

I. Date of Initial Statement of Reasons: May 31, 2016

II. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Government Code section 87300 requires every state agency to adopt a conflict of interest code. The code must designate state officials and employees that are involved in or participate in the making of decisions that may foreseeably have a material financial effect on any financial interest of the official or employee. (Gov. Code 87302(a)). A state agency must amend its conflict of interest code when new positions are created or there are changes in duties assigned to existing positions. (Gov. Code 87306(a)).

The proposed regulation establishes the designated positions and disclosure categories under which Fish and Game Commission (Commission) employees report financial interests on Form 700, Statement of Economic Interests. It adds positions that must be designated under Gov. Code 87302(a) and is necessary because the Department of Fish and Wildlife and Wildlife Conservation Board will be amending their conflict of interest code to exclude Commission employees.

The Commission proposes four disclosure categories that reflect the current organizational structure and duties of the Commission; these disclosure categories also represent the areas in which the Fish and Game Commission has regulatory authority.

The disclosure categories were developed in conjunction with oversight of the Fair Political Practices Commission. The methodology used by the Commission to do so was an exhaustive review of all of the items that arose on Commission meeting agendas over the last five years. It was

found that these agenda items, and the financial interests at stake, were sufficiently distinct from the financial interest conflicts which employees of the Department of Fish and Wildlife might face.

The proposed regulation was promulgated in consultation with and following review and discussion by the Department of Fish and Wildlife, and the Wildlife Conservation Board. The Code Reviewing Body, the Fair Political Practices Commission, provided extensive feedback in early rounds of revision. Additional review was completed by the Commission's Executive Director and Legal Counsel.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

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

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

None.

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication

At the December 9, 2015, meeting of the Commission, a draft proposal of the conflict of interest code was made available for public review and discussion. The Commission received a single comment asking to consider the inclusion of "agriculture" in several of the relevant categories. Based, in part, on that recommendation, amendments were made and are included in this proposal.

No additional public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed regulation.

III. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

No alternatives were identified by or brought to the attention of

Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative:

If the original regulations are retained, the Commission would be out of compliance with the law.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

(d) Description of Reasonable Alternatives That Would Lessen Adverse Impact on Small Business:

IV. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

V. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the proposed regulation does not change the level of hunting activity, it only affects Commission employees.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to

the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California because the proposed regulation does not change the level of hunting activity, it only affects Commission employees.

The Commission does not anticipate any benefits to the health and welfare of California residents, worker safety, or the environment.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None.

VI. Economic Impact Assessment:

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The cumulative effects of the proposed changes statewide are expected to be neutral with regard to the creation or elimination of jobs within the state.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The cumulative effects of the proposed changes statewide are expected to be neutral with regard to the creation of new businesses or the elimination of existing businesses within the State.

- (c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The cumulative effects of the proposed changes statewide are expected to be neutral with regard to expansion of businesses currently doing business within the State.

- (d) Benefits of the Regulation to the Health and Welfare of California Residents:

The cumulative effects of the changes statewide are expected to be neutral with regard to the health and welfare of California residents.

- (e) Benefits of the Regulation to Worker Safety:

The cumulative effects of the changes statewide are expected to be neutral with regard to worker safety.

- (f) Benefits of the Regulation to the State's Environment:

The cumulative effects of the changes statewide are expected to be neutral with regard to the state's environment.

Informative Digest/Policy Statement Overview

Government Code section 87300 requires every state agency to adopt a conflict of interest code. The code must designate state officials and employees that are involved in or participate in the making of decisions that may foreseeably have a material financial effect on any financial interest of the official or employee. (Gov. Code 87302(a)). A state agency must amend its conflict of interest code when new positions are created or there are changes in duties assigned to existing positions. (Gov. Code 87306(a)).

The proposed regulation establishes the designated positions and disclosure categories under which Fish and Game Commission (Commission) employees report financial interests on Form 700, Statement of Economic Interests. It adds positions that must be designated under Gov. Code 87302(a) and is necessary because the Department of Fish and Wildlife and Wildlife Conservation Board will be amending their conflict of interest code to exclude Commission employees.

Designated Classifications

Those positions covered by the proposed conflict of interest code are the following:

- Appointed Commissioners
- Executive Director and Deputy Executive Director
- Attorney, all levels
- Staff Services Manager
- Senior Environmental Scientist, serving as Marine Advisor to the Commission
- Senior Environmental Scientist, serving as Wildlife Advisor to the Commission
- Associate Governmental Program Analysts involved with contracting

Note that for these classifications, reporting was required pursuant to the conflict of interest code of the Department of Fish and Wildlife. Thus, reporting is generally not a new requirement for the incumbents.

Disclosure Categories

The Commission proposes four disclosure categories that reflect the current organizational structure and duties of the Commission as set forth in the draft regulations. These disclosure categories also represent the areas in which the Fish and Game Commission has regulatory authority. All Commissioners, the Executive Director, Career Executive Assignment positions, and Staff Environmental Scientists will be required to disclose under Category I. Program managers and analysts will be required to disclose under Category II.

The disclosure categories were developed in conjunction with oversight of the Fair Political Practices Commission. The methodology used by the Fish and Game Commission to develop these categories was an exhaustive review of all of the items that arose on Commission meeting agendas during the prior five years, preceding late 2015. It was found that the agenda items, and the financial interests at stake, were sufficiently distinct from the conflicts of interest which employees of the Department of Fish and Wildlife might face. Thus, the Fish and Game Commission moved to adopt its own conflict of interest code.

The draft code was approved by the Fair Political Practices Commission in late 2015. Then, the Fish and Game Commission placed the draft conflict of interest code on the agenda for its December 9-10, 2015 meeting. At the meeting, the Fish and Game Commission heard one comment from an interested member of the public, and moved to amend the conflict of interest code accordingly. The requested change was to include the disclosure of interests in agriculture in Categories 1, 3, and 4. There were no objections, so the amendment was made.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations.

(REGULATORY LANGUAGE)

Proposed regulatory changes are shown in strikeout/underline format. Language to be deleted is shown in strikeout, and language to be added is shown underlined, including spacing, punctuation marks, and authority and reference citations. The regulatory language is prepared beginning on a separate page.