

RESOLUTION NUMBER R- 255868

Adopted on FEB 22 1982

WHEREAS, the Department of Intergovernmental Relations briefed the Rules Committee in October 1981 on the State Office of Administrative Law (OAL) regarding a review of all existing state regulations in effect prior to July 1, 1980; and

WHEREAS, to take advantage of this opportunity, the League of California Cities (LCC) Board of Directors authorized the creation of thirteen task forces consisting of city officials to make specific recommendations to OAL; and

WHEREAS, to determine the extent of the City's input, City staff was directed to seek recommendations to OAL from interested departments and bring back those recommendations to the Rules Committee for review and approval; and

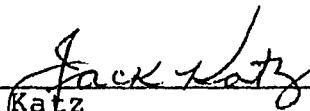
WHEREAS, the Rules Committee, on January 25, 1982, reviewed and accepted the recommendations of the Intergovernmental Relations Department in this matter; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the recommendations to the State Office of Administrative Law, contained in the January 14, 1982 memorandum from the Director of the Intergovernmental Relations Department to the Rules Committee, attached hereto as Attachment A, be and the same is hereby accepted and approved.

BE IT FURTHER RESOLVED that the Director of the Intergovernmental Relations Department is hereby directed to forward the approved recommendations to the League of California Cities for distribution to the appropriate task force.

APPROVED: John W. Witt, City Attorney

By



Jack Katz
Chief Deputy City Attorney

JK:smm
2/10/82
Or.Dept:Mayor
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R-82-1344

CITY of SAN DIEGO
MEMORANDUM

Phone: 236-6276

NO.:

DATE : January 14, 1982

TO : Rules, Legislation and Intergovernmental Relations Committee

FROM : Director, Intergovernmental Relations Department

SUBJECT: Recommendations to the State Office of Administrative Law

On October of last year your Committee was briefed on the State Office of Administrative Law (OAL) which is responsible for reviewing all existing state regulations in effect prior to July 1, 1980 to determine their necessity, authority, consistency, reference and clarity. Regulations that do not satisfy these standards are to be changed or eliminated.


To take advantage of this unique opportunity to eliminate or make changes to costly regulations that adversely affect cities, the League of California Cities Board of Directors authorized the creation of thirteen task forces consisting of city officials to make specific recommendations to OAL. As a vehicle for our City's input, your committee directed appropriate City staff to report back with their recommendations to OAL for revising or eliminating state regulations. These recommendations are attached for your information and are scheduled for review at your meeting on January 25th.

Recommendations:

- 1) That the following recommendations be forwarded to the League of California Cities for distribution to the appropriate task force:
 - a) Risk Management Department - Safety Regulations
 - b) Planning Department - Environmental Impact Report Guidelines
 - c) Fire Department - Fire and Life Safety Regulations
 - d) Police Department - Peace Officer Standards and Training

- 2) That the following recommendations not be forwarded to the League due to their lack of detail and generality:
 - a) Housing Commission - Rental Housing Construction Program
 - b) Energy Conservation Program - Energy Conservation Standards
 - c) City Attorney - Fair Political Practices Act

SH:mpa
Att.


Scott Harvey

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CITY of SAN DIEGO
MEMORANDUM

NO. 1

DATE : December 8, 1981

TO : Risk Management Director *12/9/81*

FROM : MANAGER, Safety & Loss Prevention Division

SUBJECT: Recommendations to the Senate Office of Administrative Law

This memo will follow up on our recent discussion of those areas which might bear looking into by the Office of Administrative Law. Some of these items are in effect now, and others are in the pipeline.

1. The existing Fire Fighter Protective Clothing safety orders have required us to purchase expensive equipment within a short period of time, thereby the normal life of the equipment we had prior to the new requirements was not able to be used. Cal/OSHA needs to extend the deadlines when new safety orders are created to allow us to get our money's worth from equipment we've purchased.
2. Within the next year, new hearing conservation safety orders will be written which will require all employees exposed to noise above 85 decibels to receive an annual audiometric examination. This is not a requirement at this time. Large numbers of City employees will fall under this new requirement, and it will be an expensive one. Short of trying to avoid audiometric examinations entirely, OAL should at least attempt to have audiometric exams performed every other year or every three years.
3. OAL should perhaps consider eliminating the fire service from coverage under Cal/OSHA. Cal/OSHA is primarily designed for industrial safety--not police and fire operations. Their work is so unique in this regard that Cal/OSHA should not have jurisdiction over their work.
4. The proposed PCB regulations as they have been proposed would create administrative problems for public agencies and the emergency personnel who respond to these scenes. Medical surveillance requirements are unnecessary and potentially very costly. Emergency service personnel should not be covered by the proposed orders.

I might add in conclusion that the City has been able to establish and maintain excellent relations with Cal/OSHA. We expect this to continue.

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RICK CUMMING III

Rick Cumming III

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CITY of SAN DIEGO
MEMORANDUM

FILE NO.:

DATE : December 1, 1981

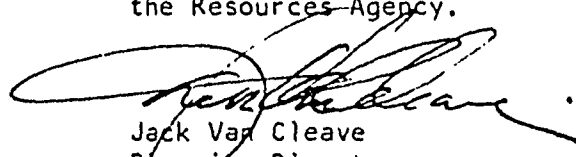
TO : John Lockwood, Assistant City Manager

FROM : Jack Van Cleave, Planning Department Director

SUBJECT: RECOMMENDATIONS TO THE STATE OFFICE OF ADMINISTRATIVE LAW

In response to the Rules Committee's direction (October 5, 1981, item 4.B.), we have assessed how our departmental responsibilities are affected by state regulations. Most of our activities are directed by state statutes and advisory administrative guidelines; therefore, we have few significant recommendations for regulatory change to make to the Committee.

However, there are important changes to the State EIR Guidelines (Cal. Admin. Code, Div. 13, Sections 21000 et seq) that we believe warrant consideration. These are detailed in the attached letter from Allen Jones to Norm Hill of the Resources Agency.



Jack Van Cleave
Planning Director

JVC:RJB:mh
Attachment



THE CITY OF

SAN DIEGO

CITY ADMINISTRATION BUILDING • 202 C STREET • SAN DIEGO, CALIF. 92101

ENVIRONMENTAL
QUALITY DIVISION
PLANNING
DEPARTMENT
236-5775

May 20, 1981

Mr. Norman F. Hill
Assistant Secretary
Office of the Secretary for Resources
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Dear Mr. Hill:

RE: REWRITING THE STATE EIR GUIDELINES

The City of San Diego is pleased to participate with the Office of Planning and Research in rewriting the State EIR Guidelines. As an agency with a very high level of development activity, we have prepared and processed a large number of environmental documents. Accordingly, we have observed that implementation of CEQA can sometimes be a cumbersome process. Many of the suggestions we offer below are directed toward reducing the overall processing time. All of our ideas, we believe, are consistent with the purpose and intent of CEQA.

Suggested Guideline Revisions:

1. Specific procedures to be utilized by public agencies to implement the requirements of the Woodland Hills decision are urgently needed. The inconsistent - and possibly inadequate - procedures used by many agencies (in the absence of definitive direction from the State) subject too many environmental reports to an otherwise avoidable legal challenge.
2. The sequential and time-consuming review periods associated with different elements of the process contribute to the frequently-challenged length of CEQA implementation. The Guidelines might, as a partial remedy, stipulate that mandatory legal noticing and public review would begin with circulation of an Initial Study or Notice of Preparation, instead of with distribution of the Environmental Impact

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Report or Negative Declaration. This procedure would accomplish two objectives: first, since public notice and participation would occur during preparation of the environmental document (instead of after), a substantial amount of processing time would be saved; second, providing a formalized notice and review procedure at the beginning of the process would be in keeping with the requirements of the Woodland Hills decision, and might serve as an adequate vehicle for implementing the requirements of that decision.

3. The requirement that Notices of Preparation be circulated by certified mail adds an unnecessary cost and procedural step to the process. Use of first-class mail would be adequate.
4. If the concept presented in item 2 (above) cannot be implemented, consideration should be given to reducing the period of Clearinghouse review of EIR's. Thirty days, instead of the present 45, should be adequate.
5. Review of EIR's by State agencies generally adds a significant increment of time to the environmental review process. Where a State agency is a responsible agency, it is clear that distribution through the Clearinghouse is appropriate. However, Section 15161.6 requires that EIR's and Negative Declarations for projects of certain size and/or location also receive State review. The benefits of this procedure, especially where the State is not a responsible agency, are normally not balanced by the substantial time consumed. Elimination of this requirement, particularly for Negative Declarations, should be considered.
6. Section 15067.5 requires that a Supplement to an EIR "be given the same kind of notice and public review as is given to a draft EIR." When a Supplement deals with minor matters or matters of local interest only this can be an onerous requirement, particularly when 45-day Clearinghouse review was involved in the original EIR. Lead agencies should be permitted more discretion in the manner of public review provided for Supplements.
7. The manner in which Findings and Statements of Overriding Considerations are made is not consistent among various agencies. A major weakness is the frequent lack of substantiation, evidence, or clear reasons in the Finding or Statement. More detailed guidance from the State as to content and procedure would help improve this component of the process.

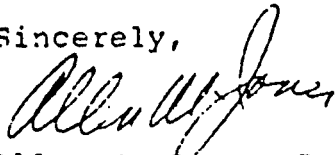
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8. The experience of The City of San Diego and many other agencies is that project-by-project review under CEQA has been largely ineffective. The most substantive issues often addressed are those which are individually not significant, although cumulatively significant, and are not amenable to mitigation except through actions outside the scope of project approval. Thus, the EIR often serves no role other than to identify impacts; resolution of these impacts - the real intent of CEQA - is not achievable. It is generally only through EIRs prepared for major development proposals or general plan elements that effective mitigation measures can be identified and implemented. In light of this, OPR should consider expanding the definitions of categorically exempt projects to include (within urbanized areas) those of a larger scope than presently identified. Local agencies could, if necessary, develop lists of sensitive locations where such "larger" projects would be excepted from exemption. Redefinition of categorical exemptions would permit agencies to focus their resources on larger projects which have a more significant impact.

Thank you for the opportunity to participate in this important rewriting of the Guidelines. I'll be happy to explain any of the above items in more detail if you should have any questions.

Sincerely,



Allen M. Jones, Deputy Director
City Planning Department

AMJ:wc

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CITY of SAN DIEGO
MEMORANDUM

Conrad

NO.:

DATE : December 1, 1981
TO : John Lockwood, Assistant City Manager via Coleman Conrad, Deputy City Manager
FROM : Earle Roberts, Fire Chief
SUBJECT: Recommendations To The Senate Office Of Administrative Law

It is the opinion of the Fire Department that state laws as they pertain to fire and life safety have not been excessive in California.

The State Fire Marshals regulations as they relate to fire and life safety have been one of the primary reasons the state enjoys one of the best life/safety records in the country. Presently, the State Fire Marshal regulates institutions (hospitals, jails, etc.), schools, public assemblies (over 50 occupant load), and high rise buildings. Because of these regulations California has not had a large life loss fire in any of these occupancies in years. Conversely, the rest of the country has experienced serious life loss fires because of their lack of regulations.

The California Fire Chief's organization through their Fire Prevention Officer's groups works very closely with the State Fire Marshal in establishing and amending these regulations. The City of San Diego has been well represented at these meetings and has been able to protect and represent the citizenries of San Diego through this process.

It is our opinion that in some cases the state regulations have been "watered down" and are not restrictive enough. A good example of this occurred in the establishment of fire protection in "existing high rise buildings". The state required many fire protection features for installation in these buildings but failed to require automatic "sprinkler systems" because of political pressure. The "state of art" fire protection for these types of buildings is the automatic sprinkler system. This was a example of state laws not being restrictive enough.

Earle Roberts

Earle G. Roberts
Fire Chief

EGR:CWVR:js

CITY of SAN DIEGO
MEMORANDUM

FILE : 100
 DATE : December 7, 1981
 TO : John Lockwood, Assistant City Manager via Ray T. Blair, Jr., City Manager
 FROM : W. B. Kolender, Chief of Police
 SUBJECT: Recommendations to the Senate Office of Administrative Law

In a memorandum of October 15, 1981, you asked for this Department's recommendations regarding changes or deletions in State regulations.

The enclosed letter to Eric Lauterer, City Attorney of Garden Grove, was prepared as part of a task force dealing with Administrative Law Review for the California League of Cities by the Police Department's Legal Advisor, John Kaheny.

I believe that the comments on Page Two of the letter outline the changes needed in the regulations on Peace Officer Standards and Training.


 W. B. KOLENDER
 Chief of Police

SH:dc

Enclosure

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ROBERT S. TEAZE
ASSISTANT CITY ATTORNEY
CURTIS M. FITZPATRICK
SENIOR CHIEF DEPUTY CITY ATTORNEY

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO
JOHN W. WITT
CITY ATTORNEY

CITY ADMINISTRATION BUILDING
SAN DIEGO, CALIFORNIA 92101
(714) 236-6220

September 24, 1981

Eric Lauterer
City Attorney
City of Garden Grove, California
11391 Acacia Parkway
Garden Grove, California 92640

RE: Administrative Law Review and Task Force 6

Dear Eric:

In accordance with our discussion of September 10, 1981 and your letter of September 14, 1981, I have drafted the following comments concerning my assignments, which include subchapters 14 and 15 of Chapter 1 of Title 11 of the California Administrative Code and Chapter 2 of Title 11 of the California Administrative Code.

Subchapter 14, Forensic Alcohol and Drug Analysis, includes Sections 997 and 998 beginning at page 112.57. Section 997, paragraph (c) should be amended to reflect the changes to Penal Code Section 1463.14 which raised the amount from \$25.00 to \$35.00 for each conviction of the indicated Vehicle Code sections. Section 998, entitled Laboratory Services and Method of Cost Assessment, indicates in section B, subparagraph 1 that the laboratory may include both direct and related costs of testing incurred by the laboratory in computing its cost assessment. It is unclear what the term "direct and related costs" covers. The San Diego Police Department laboratory has raised this issue in the past. Specifically, do training costs come within the term "related costs?" This section also is unclear in that Section 997 uses the term "a county or a city within a county" and Section 998 only uses the term "county."

In regard to subchapter 15 entitled Attorney General Regulations under Non-Profit Corporation Law, I have inquired as to the effect these regulations have on city government and have received no indication that these regulations seriously affect the operations of a city. This was the consensus at our meeting in Los Angeles. Therefore, I have made no recommendations

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concerning this subchapter.

Chapter 2 of Title 11, entitled Commission on Peace Officer Standards and Training, requires a considerable amount of study. However, in the limited time available to meet the deadline, I have uncovered some areas of concern in regard to this chapter. This chapter sets forth in exhaustive detail the procedures used by the Commission on Police Officers' Standards and Training in establishing minimum standards for training a peace officer.

Section 1002, paragraph (a), subparagraph 7 sets forth the reading requirements for a peace officer. In determining that standard, the regulations refer to Title VII of the Civil Rights Act of 1964 as amended and defined in the Equal Opportunity and Employment Guidelines. I believe a clearer standard than that can be developed.

Section 1004, Conditions for Continuing Employment, indicates that every peace officer employed by a department must serve 12 months probation. I question the necessity for this condition.

Section 1005, entitled Minimum Standards for Training, indicates in several places that reimbursement under Plan IV may be available. Section 1015, entitled Reimbursements, at page 122 does not make reference to Plan IV.

Section 1009 of Chapter 2 refers to the Specialized Law Enforcement Certification Program. I question the eligibility of this program because of the unclear definition of "specialized enforcement agency" in paragraph (x) of Section 1001, at page 116, and the definition of "specialized peace officer" in paragraph (y). The manner in which specialized law enforcement agency is defined would indicate that certain non-peace officers are entitled to be trained under this program.

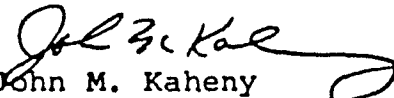
Section 1014, entitled Training for Non-sworn and Para-professional Personnel, on page 122 sets forth the procedures for the training of non-peace officer personnel. The terms "non-sworn personnel performing police tasks" and "para-professional" are defined in Section 1001, paragraphs (p) (q). The term "trainee" is used in the definition of para-professional. Trainee is further defined in paragraph (z) as an employee of a department who is assigned to attend a Post certified course. My concern is that part 4 Title 4 of the Penal Code of California, commencing at Section 13500 and entitled Standards and Training of Local Law Enforcement Officers, does not expressly provide for the training of non-peace officers. Perhaps this apparent lack of authority to regulate non-sworn and para-professional personnel training is a result of the

apparent interchangeable use of the terms "law enforcement officers" and "peace officers" in parts of the Act.

My secretary will transmit the contents of this letter to your secretary in accordance with your wishes on September 24, 1981. This letter will be forwarded for your records. If you have any questions concerning these comments, please contact me at (714) 236-6220 or 6540.

Sincerely,

JOHN W. WITT, City Attorney

By 
John M. Kaheny
Deputy City Attorney

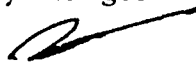
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MEMORANDUM

TO: John Lockwood
Assistant City Manager

DATE: December 4, 1981

FROM: Ben Montijo 
Executive Director

SUBJECT: Recommendation to the Senate Office
of Administrative Law

Operations of the San Diego Housing Commission are not governed directly by regulations of any State Agency. As a result we are not familiar with the State Agency governing regulations.

In general we support any effort of the OAL to limit State review of housing development projects once funding is approved. This approach has been followed in working with the HCD State Rental Housing Construction Program (AB-333). The result has been expeditious development of new low-income handicapped housing (from RFP to occupancy in 18 months).

We encourage OAL and the City to support continued funding for the State Rental Housing Construction Program.

CITY of SAN DIEGO
MEMORANDUM

NO.:

DATE : October 19, 1981

TO : John Lockwood, Assistant City Manager

FROM : Ruth Ann Fahey, Energy Coordinator via Sue Williams, Deputy City Manager

SUBJECT: Recommendations to the Senate Office of Administrative Law

Sue Williams

The California Energy Commission (CEC) work on the new Title 24 Energy Conservation Standards has been very valuable and will have a great positive influence on the economic health of the State of California by reducing unnecessary energy waste. Also, the documents prepared regarding forecasting of electricity and natural gas demand are very helpful.

It may be that these same functions could be performed under the auspices of the Public Utilities Commission (PUC). However, this would only be desirable if the PUC were given the same mandates for reducing energy waste as the CEC has been given and were also given the funding and staffing to carry out the functions now performed by the CEC.

Ruth Ann Fahey
Ruth Ann Fahey

RAF:ws

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CITY of SAN DIEGO
MEMORANDUM

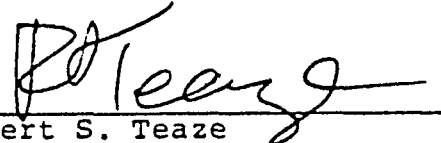
Telephone: 236-6220

DATE : December 1, 1981
TO : Scott Harvey, Director, Intergovernmental Relations Dept.
FROM : City Attorney
SUBJECT: Recommendations to the Senate Office of Administrative Law

In reply to your memorandum of October 1, 1981 regarding the above subject, this office was requested to make recommendations for change or elimination of unnecessary regulations having to do with the Fair Political Practices Commission.

Other than the repeal of the Fair Political Practices Act which created the Commission, we have no suggestions to make.

JOHN W. WITT, City Attorney

By 
Robert S. Teaze
Assistant City Attorney

RST:rc:046

Passed and adopted by the Council of The City of San Diego on FEB 22 1982,
by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lucy Killea	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(Seal)

By Ellen Board, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number R-255968 Adopted FEB 22 1982