

PROPOSED AMENDMENTS TO ARB'S CONFLICT OF INTEREST CODE

PROPOSED AMENDED TEXT OF REGULATIONS: AIR RESOURCES BOARD CONFLICT OF INTEREST CODE

Title 17, California Code of Regulations
Division 3. Air Resources Board
Chapter 1. Air Resources Board
Subchapter 9. Conflict of Interest Code

(Note: The proposed amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions from the existing regulatory text.)

Amend Section 95000, Subchapter 9. Conflict of Interest Code, Chapter 1, Division 3, Title 17, California Code of Regulations, as follows:

Article 1. General Provisions

§ 95000. General Provisions - Incorporation by Reference of Standard Conflict of Interest Code.

(a) ~~The Political Reform Act, Government Code Sections 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 at California Code of Regulations, title 2, section 18730, 2 Cal. Code of Regs. Section 18730, which that contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference into the Conflict of Interest Code of a state agency. The regulation may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of ~~2 Cal. Code of Regs. Section 18730~~ California Code of Regulations, title 2, section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are ~~hereby~~ incorporated herein by reference and, along with ~~the following Appendix in which officials and employees are designated and disclosure categories are set forth,~~ the attached Appendices designating officials and employees and establishing disclosure categories, shall constitute the Conflict of Interest Code for the California Air Resources Board (ARB or Board).~~

Designated employees shall file statements of economic interests with the person designated to perform this function for the agency Board who shall make the statements available for public inspection and reproduction. (Gov. Code, §81008.) Upon receipt of the statements ~~of from~~ the Board Members and the Executive Officer of the Air Resources Board, ~~said the designated~~ person shall make and retain a copy and forward the original of these statements to the Fair Political Practices

PROPOSED AMENDMENTS TO ARB'S CONFLICT OF INTEREST CODE

Commission. Original statements for all other designated employees will be retained by the Board.

(b) All members of advisory groups or committees appointed by the Board pursuant to Health and Safety Code Section 39603, perform a solely advisory function, and hence do not hold "designated positions" within the meaning of this Code, and are therefore exempt from the requirements of this Code.

Note: Authority cited: Sections 39600 and 39601, Health and Safety Code; Sections 82019, 87300 and 87306, Government Code. Reference: Sections 82019 and 87300, 87301, 87302 and 87500, Government Code; Section 18730 of Title 2, California Code of Regulations.

Appendix A List of Designated Positions

Persons holding the following job classifications are hereby required to file statements of economic interests in accordance with the disclosure categories indicated below. Each disclosure category is described in Appendix B.

<i>List of Designated Positions (by Classification)</i>	<i>Assigned Disclosure Categories</i>
<u>BOARD-WIDE</u>	
<u>Chair</u>	<u>1</u>
<u>Board Member</u>	<u>1</u>
<u>All Exempt and Career Executive Assignment (CEA) positions, if not listed below</u>	<u>1</u>
<u>Consultants (as defined in Title 2 of the California Code of Regulations, section 18700.3); other positions not currently designated (e.g., new classifications)</u>	* -
<u>CHAIR'S OFFICE</u>	
<u>Air Pollution Specialist</u>	<u>2</u>
<u>Air Resources Engineer</u>	<u>2</u>
<u>Air Resources Supervisor (all levels)</u>	<u>2</u>
<u>Associate Governmental Program Analyst</u>	<u>2</u>
<u>Communications Director</u>	<u>1</u>
<u>Information Officer (all levels)</u>	<u>2</u>
<u>International Liaison</u>	<u>1</u>
<u>Legislative Director</u>	<u>1</u>
<u>Policy Advisor</u>	<u>1</u>
<u>Small Business Ombudsperson</u>	<u>1</u>
<u>Special Counsel</u>	<u>1</u>
<u>Staff Services Analyst</u>	<u>2</u>

PROPOSED AMENDMENTS TO ARB'S CONFLICT OF INTEREST CODE

<u>Staff Services Manager (all levels)</u>	<u>2</u>
<u>EXECUTIVE OFFICE</u>	
<u>Air Pollution Specialist</u>	<u>3,4</u>
<u>Assistant Chief Counsel</u>	<u>1</u>
<u>Assistant Executive Officer</u>	<u>1</u>
<u>Associate Governmental Program Analyst</u>	<u>3,4</u>
<u>Attorney (all levels)</u>	<u>1</u>
<u>Chief Counsel</u>	<u>1</u>
<u>Chief, Fuel Cell Program</u>	<u>1</u>
<u>Deputy Executive Officer</u>	<u>1</u>
<u>Executive Officer</u>	<u>1</u>
<u>Staff Air Pollution Specialist</u>	<u>1</u>
<u>Staff Services Analyst</u>	<u>3,4</u>
<u>Staff Services Manager (all levels)</u>	<u>3,4</u>
<u>OFFICE OF INFORMATION SERVICES</u>	
<u>Air Pollution Specialist</u>	<u>7</u>
<u>Air Resources Engineer</u>	<u>7</u>
<u>Assistant Information Systems Analyst</u>	<u>7</u>
<u>Associate Governmental Program Analyst</u>	<u>7</u>
<u>Associate Information Systems Analyst (Specialist)</u>	<u>7</u>
<u>Associate Programmer Analyst (Specialist)</u>	<u>7</u>
<u>Chief Information Officer (Division Chief)</u>	<u>1</u>
<u>Data Processing Manager (II and lower)</u>	<u>7</u>
<u>Data Processing Manager (III and IV)</u>	<u>2</u>
<u>Information Security Manager (Systems Software Specialist III)</u>	<u>7</u>
<u>Programmer II</u>	<u>7</u>
<u>Senior Information Systems Analyst (Specialist or Supervisor)</u>	<u>7</u>
<u>Senior Programmer Analyst (Specialist or Supervisor)</u>	<u>7</u>
<u>Staff Information Systems Analyst</u>	<u>7</u>
<u>Staff Programmer Analyst (Specialist)</u>	<u>7</u>
<u>Staff Services Analyst</u>	<u>7</u>
<u>Systems Software Specialist (all levels)</u>	<u>7</u>
<u>ADMINISTRATIVE SERVICES DIVISION</u>	
<u>Division Chief</u>	<u>1</u>
<u>Accounting Branch</u>	
<u>Accounting Administrator III (Branch Chief)</u>	<u>1</u>
<u>Business Management Branch</u>	
<u>Associate Business Management Analyst</u>	<u>5</u>
<u>Associate Governmental Program Analyst</u>	<u>5</u>

PROPOSED AMENDMENTS TO ARB'S CONFLICT OF INTEREST CODE

<u>Business Services Officer (all levels)</u>	<u>5</u>
<u>Staff Services Analyst</u>	<u>5</u>
<u>Staff Services Manager I and II</u>	<u>5</u>
<u>Staff Services Manager III (Branch Chief)</u>	<u>1</u>
<u>Budgets/Contracts/Grants Branch</u>	
<u>Associate Budget Analyst</u>	<u>5,6</u>
<u>Associate Governmental Program Analyst</u>	<u>5,6</u>
<u>Staff Services Analyst</u>	<u>5,6</u>
<u>Staff Services Manager I and II</u>	<u>5,6</u>
<u>Staff Services Manager III (Branch Chief)</u>	<u>1</u>
<u>Human Resources Branch</u>	
<u>Attorney</u>	<u>1</u>
<u>Labor Relations Specialist</u>	<u>2</u>
<u>Staff Services Manager I and II</u>	<u>2</u>
<u>Staff Services Manager III (Branch Chief)</u>	<u>1</u>
<u>The technical and regulatory program divisions: AIR QUALITY PLANNING & SCIENCE DIVISION (AQPSD); EMISSIONS COMPLIANCE, AUTOMOTIVE REGULATIONS AND SCIENCE DIVISION (ECARS); ENFORCEMENT DIVISION (ED); INDUSTRIAL STRATEGIES DIVISION (ISD); MOBILE SOURCE CONTROL DIVISION (MSCD); MONITORING AND LABORATORY DIVISION (MLD); RESEARCH DIVISION (RD); and TRANSPORTATION AND TOXICS DIVISION (TTD)</u>	
<u>Air Pollution Specialist</u>	<u>3,4</u>
<u>Air Resources Engineer</u>	<u>3,4</u>
<u>Air Resources Field Representative (all levels)</u>	<u>3,4</u>
<u>Air Resources Supervisor I, if in the following units:</u> <u>Incentives and Technology Advancement Branch of MSCD</u> <u>Innovative Strategies Branch of MSCD</u> <u>Climate Investments Branch of TTD</u> <u>Goods Movement Strategies Section, Freight Transport Branch of TTD</u>	<u>3,4,6</u>
<u>Air Resources Supervisor I, all other units</u>	<u>3,4</u>
<u>Air Resources Supervisor II, if in the following units:</u> <u>Incentives and Technology Advancement Branch of MSCD</u> <u>Innovative Strategies Branch of MSCD</u> <u>Climate Investments Branch of TTD</u> <u>Freight Transport Branch of TTD</u>	<u>3,4,6</u>

PROPOSED AMENDMENTS TO ARB'S CONFLICT OF INTEREST CODE

<u>Air Resources Supervisor II, all other units</u>	<u>3,4</u>
<u>Assistant Division Chief</u>	<u>1</u>
<u>Assistant Information Systems Analyst</u>	<u>7</u>
<u>Associate Governmental Program Analyst</u>	<u>3,4</u>
<u>Auto Emissions Testing Specialist III</u>	<u>3,4</u>
<u>Division Chief</u>	<u>1</u>
<u>Materials and Stores Specialist</u>	<u>3,4</u>
<u>Scientific Review Panel on Toxic Air Contaminants Member</u>	<u>1</u>
<u>Spectroscopist</u>	<u>3,4</u>
<u>Staff Air Pollution Specialist</u>	<u>3,4</u>
<u>Staff Services Analyst</u>	<u>3,4</u>
<u>Staff Services Manager (all levels)</u>	<u>3,4</u>
<u>Staff Toxicologist Specialist</u>	<u>3,4</u>
<u>Vehicle Program Specialist</u>	<u>3,4</u>

*Consultants (as defined in Title 2 of the California Code of Regulations, section 18700.3); and other positions not listed in the code (for example, new classifications) are "designated positions" for the purposes of these provisions and shall disclose pursuant to category 1 subject to the following limitation:

The Executive Officer, or his or her designee, may determine in writing that a particular consultant or new position, although a "designated position," is hired to perform a range of duties that are 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 or new position's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Officer'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.

Appendix B **Disclosure Categories**

Category 1

All investments, interests in real property, positions in business and non-profit entities, and sources of income including receipt of gifts, loans, and travel payments. Applicable Form 700 Schedules: all.

Category 2

All investments (excluding interests in real property), positions in business and non-profit entities, and sources of income including receipt of gifts, loans, and travel payments. Applicable Form 700 Schedules: all except Schedule B.

PROPOSED AMENDMENTS TO ARB'S CONFLICT OF INTEREST CODE

Category 3

All investments in, positions in, and income (including receipt of gifts, loans, and travel payments) from any entity or individual subject to the regulatory authority of the Board or any local air pollution control district. Applicable Form 700 Schedules: all except Schedule B.

Category 4

All investments in, positions in, and income (including receipt of gifts, loans, and travel payments) from business and non-profit entities engaged in any of the following types of activities: air pollution research; development of air pollution control strategies; environmental compliance consulting; preparation of environmental impact reports; climate change modeling; marketing of global warming emissions compliance credits; transportation planning; or any other activity which in the previous two years has been the subject of Board research or proposal. Applicable Form 700 Schedules: all except Schedule B.

Category 5

All investments in, positions in, and income (including receipt of gifts, loans, and travel payments) from business and non-profit entities that provide goods, equipment, vehicles, machinery, leased facilities or services, including training or consulting services of the type utilized by the Board. Applicable Form 700 Schedules: all except Schedule B.

Category 6

All investments in, positions in, and income (including receipt of gifts, loans, and travel payments) from business and non-profit entities of the type to receive grants or other funding from or through the Board. Applicable Form 700 Schedules: all except Schedule B.

Category 7

All investments in, positions in, and income (including receipt of gifts, loans, and travel payments) from business and non-profit entities that provide information technology and telecommunications goods, products or services, including but not limited to, computer hardware or software companies, computer consultant services, training, data processing firms, and media services. Applicable Form 700 Schedules: all except Schedule B.

NOTE: Repeal Sections 95001, 95002, 95003, 95004, 95005, 95006, and 95007, Subchapter 9. Conflict of Interest Code, Chapter 1, Division 3, Title 17, California Code of Regulations, as follows:

~~Article 2. Appendix: Designated Employees and Disclosure Categories~~

PROPOSED AMENDMENTS TO ARB'S CONFLICT OF INTEREST CODE

~~§ 95001. Professional Employees.~~

~~For purposes of the following disclosure categories, persons at all levels of the following employment classifications are deemed to be professional employees:~~

~~Analysts~~

~~Biostatisticians~~

~~Chemists~~

~~Engineers~~

~~Field Representatives~~

~~Managers~~

~~Meteorologists~~

~~Officers~~

~~Programmers~~

~~Spectroscopists~~

~~Specialists~~

~~Supervisors, excluding Auto Emissions Test Supervisors~~

~~Toxicologists~~

~~Transportation Planners~~

~~Writers~~

~~Note: Authority cited: Sections 39600 and 39601, Health and Safety Code; Sections 87300 and 87306, Government Code. Reference: Sections 82019 and 87302, Government Code.~~

~~§ 95002. Category I.~~

~~(a) This Category applies to: Air Resources Board Members, the Advisors to the Board, members of the Scientific Review Panel on Toxic Air Contaminants, members of the Scientific Advisory Committee on Acid Deposition, members of the Research Screening Committee, Executive Officer, Chief Deputy Executive Officer, Deputy Executive Officers, all Special Office Chiefs, all Division Chiefs and Assistant Division Chiefs, all~~

PROPOSED AMENDMENTS TO ARB'S CONFLICT OF INTEREST CODE

~~Administrative Law Judges, all Staff Attorneys, all professional employees, special assistants and special consultants* attached to the Chair's Office and to the Executive Office, Branch Chiefs of the Administrative Services Division, and the Training Section Manager, the Contracts Manager, Contracts Analysts, Procurement Officers, Business Services Officer Supervisors, and Business Management Analysts.~~

~~(b) Every person in this Category must report: all investments, all interests in real property, all sources of income including gifts, loans, and travel payments, and his or her status as a director, officer, partner, trustee, employee, or holder of any position of management in any business entity.~~

~~-----*With respect to consultants, however, the Executive Officer may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that are limited in scope and thus is not required to comply with the disclosure requirements described in this section. Such determination shall include a description of the consultant's duties and, based upon the description, a statement of the extent of the disclosure requirements. A copy of the written determination shall be retained at the Offices of the Air Resources Board and made available for public inspection. Nothing herein excuses any consultant from any other provision of this Conflict of Interest Code. (This footnote applies to consultants in all disclosure categories, as indicated by the asterisks in the following sections.)~~

~~Note: Authority cited: Sections 39600 and 39601, Health and Safety Code; Sections 82019, 87300 and 87306, Government Code. Reference: Sections 82019 and 87302, Government Code.~~

~~§ 95003. Category II.~~

~~(a) This Category applies to: Members of the Abrasive Blasting Committee and all professional employees in and special consultants* attached to the Stationary Source Division.~~

~~(b) Every person in this Category must report: all investments in, income, including gifts, loans, and travel payments from, and his or her status as a director, officer, partner, trustee, employee, or holder of any position of management,~~

~~(1) in any business entity which is subject to any laws of the State of California, or regulations promulgated by the Air Resources Board, relating to the control of air pollution from nonvehicular sources, or subject to any rules or regulations promulgated by any local air pollution control district;~~

~~(2) in any business entity of the type which has contracted with the Board to provide services, supplies, materials, machinery, instrumentation, or equipment to the Board;~~

PROPOSED AMENDMENTS TO ARB'S CONFLICT OF INTEREST CODE

~~(3) in any business entity, including a construction company, which is regularly engaged in the development of or investment in real property in California; and~~

~~(4) in any business entity which is regularly engaged in the preparation of environmental impact reports or environmental impact statements.~~

~~Note: Authority cited: Sections 39600 and 39601, Health and Safety Code; Sections 87300 and 87306, Government Code. Reference: Sections 82019 and 87302, Government Code.~~

~~§ 95004. Category III.~~

~~(a) This Category applies to: All professional employees in and special consultants* attached to the Research Division.~~

~~(b) Every person in this Category must report: all investments in, income, including gifts, loans, and travel payments from, and his or her status as a director, officer, partner, trustee, employee, or holder of any position of management,~~

~~(1) in any business entity which is subject to any laws of the State relating to the control of air pollution from vehicular or nonvehicular sources, or which is subject to any rules or regulations promulgated either by the Air Resources Board or by any local air pollution control district; and~~

~~(2) in any business entity involved in activities relating to air pollution research, the development of air pollution control strategies or any activity which for the past two years has been the subject of a board research proposal, bid or contract.~~

~~(c) In addition, employees in this category must report any income, including gifts, loans, and travel payments, from any non-profit institution involved in activities relating to air pollution research, the development of air pollution control strategies or any activity which for the past two years has been the subject of a board research proposal, bid or contract.~~

~~Note: Authority cited: Sections 39600 and 39601, Health and Safety Code; Sections 87300 and 87306, Government Code. Reference: Sections 82019 and 87302, Government Code.~~

~~§ 95005. Category IV.~~

~~(a) This Category applies to: All professional employees in and special consultants* attached to the Enforcement Division, the Planning and Technical Support Division, the Office of Information Services, and the Monitoring and Laboratory Division.~~

PROPOSED AMENDMENTS TO ARB'S CONFLICT OF INTEREST CODE

~~(b) Every person in this Category must report: all investments in, income, including gifts, loans, and travel payments from, and his or her status as a director, officer, partner, trustee, employee, or holder of any position of management, in any business entity which is subject to any laws of the State of California relating to the control of air pollution from vehicular or nonvehicular sources, or which is subject to any rules or regulations promulgated either by the Air Resources Board or by any local air pollution control district.~~

~~Note: Authority cited: Sections 39600 and 39601, Health and Safety Code; Sections 87300 and 87306, Government Code. Reference: Sections 82019 and 87302, Government Code.~~

~~§ 95006. Category V.~~

~~(a) This Category applies to: All professional employees in and special consultants* attached to the Mobile Source Operations Division and the Mobile Source Control Division.~~

~~(b) Every person in this Category must report: all investments in, income, including gifts, loans, and travel payments from, and his or her status as a director, officer, partner, trustee, employee, or holder of any position of management,~~

~~(1) in any business entity associated with the manufacture, distribution, sale, leasing, repair, or (except for entities associated solely with the news media) the advertisement of motor vehicles, vehicular emission control devices or equipment, or vehicle after market parts or vehicle fuels or fuel additives which may affect emissions; and~~

~~(2) in any business entity of the type which has contracted within the previous two years with the Board to provide services, supplies, materials, machinery, instrumentation, or equipment to the Board.~~

~~Note: Authority cited: Sections 39600 and 39601, Health and Safety Code; Sections 87300 and 87306, Government Code. Reference: Sections 82019 and 87302, Government Code.~~

~~§ 95007. Advisory Committees.~~

~~The Board finds that all members of advisory groups or committees appointed by the Board pursuant to Health and Safety Code Section 39603, perform a solely advisory function, and hence are not "designated employees" within the meaning of this Code, and are therefore exempt from the requirements of this Code.~~

PROPOSED AMENDMENTS TO ARB'S CONFLICT OF INTEREST CODE

~~Note: Authority cited: Sections 39600 and 39601, Health and Safety Code; Sections 87300 and 87306, Government Code. Reference: Sections 82019 and 87302, Government Code.~~