

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Air Resources Board

Subchapter 5. Emission Data, Sampling, and Credentials for Entry

Article 2. Source Testing

§ 91208. Conflict of Interest.

(a) An independent tester shall not be allowed to conduct a compliance source test pursuant to this subchapter if:

(1) It is owned in whole or in part by the responsible party of the source; or

(2) In the 12 months preceding the test, the independent tester has received gross income from the responsible party, other than as a result of source test contracts entered into pursuant to this subchapter, in excess of \$100,000, or in excess of ten percent of the independent tester's gross annualized revenues; provided that for the purpose of this subsection, "independent tester" and "responsible party" shall include any entity under common ownership with such tester or party; or

(3) The independent tester manufactured or installed any emission control device or monitor utilized in connection with the specific source to be tested.

(b) An independent tester shall not utilize in a compliance test pursuant to this subchapter any employee or agent who holds a direct or indirect investment in the responsible party of the source of \$1,000 or more, or who has directly received in the previous 12 months income in excess of \$250 from the responsible party of the source, or who is a director, officer, partner, employee, trustee, or holds any position of management in the responsible party of the source.

(c) If the Executive Officer determines that a compliance source test administered pursuant to this subchapter was not conducted in accordance with the provisions of this section, he or she may invalidate the results of the test and the tester may be subject to disqualification from further testing on the Board's behalf.

NOTE: Authority cited: Sections 39600, 39601 and 41512, Health and Safety Code. Reference: Sections 41510, 41511 and 41512, Health and Safety Code.

REFERENCE