

# Department of Resources Recycling and Recovery Reasons for Adopting Conflict of Interest Code

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Pursuant to Government Code section 87300, the Department of Resources Recycling and Recovery is adopting its conflict of interest code (Cal. Code Regs., title 14, § 18419). This conflict of interest code reflects the Fair Political Practices Commission's interpretation of "making" or "participating in making" governmental decisions as including advising or making recommendations to the decision maker by conducting research or preparing reports, analyses, or opinions. (Cal. Code Regs., title 2, §§ 18702-18702.4.) The specific provisions are presented below, along with an explanation of each.

The Department of Resources Recycling and Recovery (DRRR or Department) was established by legislation that became effective on January 1, 2010. (Stats. 2009, ch. 21 (SB 63, 2008-2009 Reg. Sess.)) As of January 1, 2010, the employees of the California Integrated Waste Management Board (CIWMB) and the Division of Recycling (DOR) of the Department of Conservation (DOC) were transferred to the new DRRR. (Pub. Res. Code § 40401.)

The DOR of the new DRRR succeeds to and is vested with all of the authority, duties, powers, purposes, responsibilities, and jurisdiction of the DOC in the performance of a function carrying out the Beverage Container Recycling and Litter Reduction Act. (Div. 12.1 of the Public Resources Code (commencing with § 14500).) (See Pub. Res. Code § 40401.) Similarly, DRRR succeeds to and is vested with all of the authority, duties, powers, purposes, responsibilities, and jurisdiction of the former CIWMB. (Pub. Res. Code § 40401.)

As a new department, the DRRR has up to 6 months from the date it comes into existence to adopt a conflict of interest code. (Gov. Code § 87303.)

## **A. The Conflict of Interest Code of the former CIWMB is being replaced with the newly adopted code of DRRR**

The conflict of interest code (code) of the former CIWMB is designated as section 18419 of chapter 5.9 of division 7 of title 14 of the California Code of Regulations. (Cal. Code Regs., title 14, § 18419.)

The code of the former CIWMB is being deleted in its entirety.

The Department is hereby replacing the code of the former CIWMB with the newly adopted code of the DRRR. The DRRR code is designated as section 18419 of chapter 5.9 of division 7 of title 14 of the California Code of Regulations. (Cal. Code Regs., title 14, § 18419.)

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**B. The Department's Code Will Not Be Printed In The California Code Of Regulations**

Pursuant to Government Code section 11344, the Department has determined that the printing of the regulations constituting its Conflict of Interest Code is impractical and of limited and particular application. Accordingly, these regulations will not be published in full in the California Code of Regulations. The regulations are available to the public for review or purchase at cost at the following locations:

DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY  
(CalRecycle)  
801 K Street, MS 19-01  
Sacramento, CA 95814

FAIR POLITICAL PRACTICES COMMISSION  
428 J STREET, SUITE 800  
SACRAMENTO, CA 95814

ARCHIVES  
SECRETARY OF STATE  
1020 "O" STREET  
SACRAMENTO, CA 95814

**C. General Requirements Of Conflict Of Interest Codes**

Under the Political Reform Act (Gov. Code § 81000 et seq.), all public agencies are required to adopt a conflict of interest code. (Gov. Code § 87300.) A code designates positions required to file Statements of Economic Interests (Form 700), and assigns disclosure categories specifying the types of interests to be reported. The Form 700 is a public document intended to alert public officials and members of the public to the types of financial interests that may create conflicts of interests.

Each code must contain three components, *i.e.*, the terms of the code, the designated positions and the disclosure categories. Each of the three components is briefly described below. (The descriptions are drawn from the web site of the Fair Political Practices Commission. <http://www.fppc.ca.gov/index.php?id=228>.)

**1. Terms Of The Code**

The terms of the code comprise the main body of a code and include such provisions as the manner of reporting financial interests, the disqualification procedures, etc. The Fair Political Practices Commission (FPPC) recommends that agencies incorporate FPPC Regulation 18730 by reference, because the type of information required to be in the main body of the code is quite complex and Regulation 18730 contains all of these

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provisions. (Cal. Code Regs., title 2, § 18730.) The FPPC will amend the regulation to include legislative and regulatory changes that affect the main body of the code; therefore, this component of an agency's code is automatically in compliance with the Act.

**a. Terms Of The Department's Code**

The Department's code (Cal. Code Regs., title 14, § 18419) incorporates by reference FPPC Regulation 18730, which includes all the information required to be in the main body of the code. (Cal. Code Regs., title 2, § 18730.)

**2. Designated Positions**

The code must specifically list positions that make or participate in making decisions. Typically, positions that involve voting on matters, negotiating contracts, or making recommendations on purchases without substantive review must be included in codes. Employees in designated positions are required to file Statements of Economic Interests (Form 700). Positions listed in Government Code Section 87200 are not required to be included, because these positions automatically file Form 700.

An agency may review duty statements or enlist the assistance of department or division managers to determine which positions should be included.

**a. The Department's Designated Positions (Appendix A)**

The list of positions the Department is designating as making or participating in making decisions are listed in Appendix A of the code. (Cal. Code Regs., title 14, § 18419, App. A.) The Department reviewed duty statements and/or conferred with appropriate managers to determine which positions should be included. Appendix A also assigns a Disclosure Category to each designated position.

**3. Disclosure Categories**

A primary purpose of the code is to require disclosure of those types of investments, interests in real property, sources of income and business positions that designated positions may affect in their decision-making. For example, the manager of an agency should be assigned full disclosure (all investments, interests in real property, sources of income and business positions) because the manager makes decisions that affect a wide range of interests. Alternatively, a purchasing agent whose decision making is limited to the purchase of office supplies should only be assigned disclosure of investments, sources of income and business positions in entities that provide goods or services of the type used by the agency.

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**a. The Department's Disclosure Categories (Appendix B)**

The types of investments, interests in real property, sources of income and business positions that designated positions are required to disclose are described in the Disclosure Categories presented in Appendix B of the Department's code. (Cal. Code Regs., title 14, § 18419, App. B.)

**D. The Department's Designated Positions (Appendix A)**

The list of positions the Department is designating as making or participating in making decisions are listed in Appendix A of the code. (Cal. Code Regs., title 14, § 18419, App. A.) The Department reviewed duty statements and/or conferred with appropriate managers to determine which positions should be included.

Appendix A designates positions in the Department that are required to file Statements of Economic Interests (Form 700) and assigns disclosure categories specifying the types of interests to be reported.

Rather than listing designated positions according to a detailed, multi-layered organizational structure, the Department is listing designated positions by classifications and series, irrespective of the work unit to which the positions are assigned. This reduces the need to make sweeping changes to the conflict of interest code based only on variations in working titles, branch or unit name changes, and reorganizations.

**1. Executive**

The organizational unit "Executive" is listed. The Directorate and Department-wide administration and support offices are encompassed by the Executive component.

The following position titles are designated. Employees in these positions make or participate in making governmental decisions. The positions are assigned to disclosure categories 1 and 2 based on potential conflicts of interest associated with their duties.

Director  
Chief Deputy Director  
Assistant Director

**a. Legal Office**

The organizational unit "Legal Office" is listed.

The position title "Chief Counsel" is added. An employee in this position makes or participates in making governmental decisions. The employee provides advice and legal representation to all divisions and levels of the organization on a broad range of

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topics. The position is assigned to disclosure categories 1 and 2 based on potential conflicts of interest associated with its duties.

The text "All employees in the following Legal Office classifications or series:" is listed.

The following position titles are designated. Employees in these positions make or participate in making governmental decisions. They provide advice and legal representation to all divisions and levels of the organization on a broad range of topics. The positions are assigned to disclosure categories 1 and 2 based on potential conflicts of interest associated with their duties.

Staff Counsel III  
Staff Counsel

**b. Legislative And External Affairs Office**

The organizational unit "Legislative And External Affairs Office" is listed.

The position title "Deputy Director" is listed. An employee in this position makes or participates in making governmental decisions. The position is assigned to disclosure categories 1 and 2 based on potential conflicts of interest associated with its duties.

The text "All employees in the following Legislative And External Affairs Office classifications or series:" is listed.

The following position titles are designated. Employees in these positions make or participate in making governmental decisions. The positions are assigned to disclosure category 2 based on potential conflicts of interest associated with their duties.

Associate Governmental Program Analyst  
Staff Services Analyst  
Staff Services Manager

**c. Public Affairs Office**

The organizational unit "Public Affairs Office" is listed.

The position title "Deputy Director" is designated. An employee in this position makes or participates in making governmental decisions. The position is assigned to disclosure categories 1 and 2 based on potential conflicts of interest associated with its duties.

The text "All employees in the following Public Affairs Office classifications or series:" is listed.

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The following position titles are designated. Employees in these positions make or participate in making governmental decisions. The positions are assigned to disclosure category 6 based on potential conflicts of interest associated with their duties.

Information Officer  
Staff Services Analyst  
Associate Governmental Program Analyst  
Supervisor of Technical Publications  
Graphic Designer  
Associate Editor  
Recycling Specialist

**2. Administration And Finance Division**

The organizational unit "Administration And Finance Division" is listed.

The position title "Deputy Director" is designated. An employee in this position makes or participates in making governmental decisions. The position is assigned to disclosure categories 1 and 2 based on potential conflicts of interest associated with its duties.

The text "All employees in the following Administration And Finance Division classifications or series:" is listed.

The following position titles are designated. Employees in these positions make or participate in making governmental decisions. The positions are assigned to disclosure category 6 based on potential conflicts of interest associated with their duties.

Research Manager  
Research Analyst  
Staff Services Manager  
Staff Services Analyst  
Integrated Waste Management Specialist  
Associate Governmental Program Analyst  
Associate Management Auditor  
Associate Programmer Analyst  
Associate Business Management Analyst  
Senior Accounting Officer  
Business Services Officer  
Management Services Technician

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The following position titles are designated. Employees in these positions make or participate in making governmental decisions. The positions are assigned to disclosure category 7 based on potential conflicts of interest associated with their duties.

Chief of Information Technology  
Senior Information Systems Analyst  
Associate Information Systems Analyst  
Staff Information Systems Analyst  
Data Processing Manager  
Staff Programmer Analyst  
Senior Programmer Analyst

**3. Waste Management Division**

The organizational unit "Waste Management Division" is listed.

The following position titles are designated. Employees in these positions make or participate in making governmental decisions. The positions are assigned to disclosure categories 1 and 3 based on potential conflicts of interest associated with their duties.

Deputy Director  
Assistant Director  
Member, Recycling Market Development Zone Loan Committee

The text "All employees in the following Waste Management Division classifications or series:" is listed.

The following position titles are designated. Employees in these positions make or participate in making governmental decisions. The positions are assigned to disclosure categories 3 and 4 based on potential conflicts of interest associated with their duties.

Supervising Integrated Waste Management Specialist  
Senior Integrated Waste Management Specialist  
Integrated Waste Management Specialist  
Staff Services Analyst  
Associate Government Program Analyst  
Supervising Waste Management Engineer  
Senior Waste Management Engineer  
Waste Management Engineer  
Loan Officer  
Supervising Engineering Geologist  
Senior Engineering Geologist  
Associate Engineering Geologist  
Engineering Geologist

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Research Manager  
Research Program Specialist  
Research Analyst  
Associate Information Systems Analyst  
Senior Industrial Hygienist  
Associate Industrial Hygienist  
Assistant Industrial Hygienist

The position title "Associate Architect" is designated. An employee in this position makes or participates in making governmental decisions. The position is assigned to disclosure category 3 based on potential conflicts of interest associated with its duties.

**4. Division Of Recycling**

The organizational unit "Division Of Recycling" is listed.

The following position titles are designated. Employees in these positions make or participate in making governmental decisions. The positions are assigned to disclosure categories 1 and 5 based on potential conflicts of interest associated with their duties.

Deputy Director  
Deputy Chief  
All Managers and Supervisors

The text "All employees in the following Division Of Recycling classifications or series:" is listed.

The following position titles are designated. Employees in these positions make or participate in making governmental decisions. The positions are assigned to disclosure category 5 based on potential conflicts of interest associated with their duties.

Environmental Program Manager (non-supervisory)  
Management Services Technician  
Staff Services Analyst  
Associate Governmental Program Analyst  
Recycling Specialist (non-supervisory)  
Auditor  
Research Analyst  
Research Program Specialist  
Graphic Designer  
Environmental Scientist  
Staff Services Manager  
Research Manager

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**5. Department-Wide**

The heading "Department-Wide" is listed. Positions listed under this heading are designated throughout the organization irrespective of the organizational segment or work unit to which the positions are assigned.

The position title "Consultant" is designated. A person in this position makes or participates in making governmental decisions. The position is assigned to disclosure categories 1 and 2 based on potential conflicts of interest associated with its duties.

An asterisk (\*) appears after the position title "Consultant." Another corresponding asterisk appears under the position title and language follows explaining the disclosure requirements for consultants and allowing for the determination by the Department's Director that different disclosure requirements are appropriate for a particular consultant.

**E. The Department's Disclosure Categories (Appendix B)**

The types of investments, interests in real property, sources of income and business positions that designated positions are required to disclose are described in the Disclosure Categories presented in Appendix B of the Department's code. (Cal. Code Regs., title 14, § 18419, App. B.) A total of 7 disclosure categories are established.

Disclosure Category 1 requires disclosure of interests in real property within California. It is appropriate for positions at the upper levels of the organization with duties that involve broad policy-making and governmental decisions with state-wide implication.

Disclosure Category 2 requires the disclosure of investments, business positions in, and income from sources of the type that are regulated by, do business with, receive payments from, or owe money to the Department. The disclosure of real property is not required. It is appropriate for positions having broad policy or decision making duties for the Department and positions with duties that concern all or a large portion of the Department.

Disclosure Category 3 requires the disclosure of investments, business positions in, and income from sources of the type that are regulated by, do business with, receive payments from, or owe money to the Waste Management Division. The disclosure of real property is not required. It is appropriate for positions having broad policy or decision making duties for the Department and for positions in the Waste Management Division with any of a wide range of duties.

Disclosure Category 4 requires the disclosure of a proscribed set of interests in real property. Only real property meeting certain criteria that is located in a county in which the employee has enforcement responsibilities or provides planning, financial, or in-kind

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assistance for the Waste Management Division is required to be disclosed. It is appropriate for employees of the Waste Management Division with any of a wide range of duties.

Disclosure Category 5 requires the disclosure of investments, business positions in, and income from sources of the type that are regulated by, do business with, receive payments from, or owe money to the Division of Recycling. The disclosure of real property is not required. It is appropriate for positions having broad policy or decision making duties for the Department and for positions in the Division of Recycling with any of a wide range of duties.

Disclosure Category 6 requires the disclosure of investments, business positions in, and income from sources of the type that provide goods or services to or receive monies from the Department. The disclosure of real property is not required. It is appropriate for positions with non-regulatory duties that concern all or a large portion of the Department and/or involve accounting, procurement, or other aspects of the Department's finances.

Disclosure Category 7 requires the disclosure of investments, business positions in, and income from sources that provide goods and services related to information technology, geographical information systems, electronic records storage, audio, video, multimedia, and telecommunications, of the type used by the Department.. The disclosure of real property is not required. It is appropriate for positions in the Information Management Branch of the Administration and Finance Division with any of a wide range of duties.