

Department of Resources Recycling and Recovery Reasons for Amending Conflict of Interest Code

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Pursuant to Government Code section 87306, the Department of Resources Recycling and Recovery (Department) is amending its conflict of interest code (Cal. Code Regs., title 14, § 18419) to bring it current with the existing organizational structure and the positions comprising the agency's workforce. These amendments reflect 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 amendments are presented below, along with an explanation of each proposed change.

I. 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 Accordingly, these regulations will not be published in full in the California Code of Regulations.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

II. The Elements Of The Department's Conflict Of Interest Code

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.

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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 described on the web site of the Fair Political Practices Commission.

(<http://www.fppc.ca.gov/index.php?id=228>.)

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.)

B. 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.

Rather than listing the 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 within the Executive Offices and Divisions. 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. Unless stated otherwise in the code, all classifications in a series are designated.

C. 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.)

III. Amendments To The General Provisions Of The Code

Section 18419 of title 14 of the California Code of Regulations presents the General Provisions of the Department's code. The second paragraph of section 18419 provides that upon receiving the statements of economic interest of "the Director and members of Boards and Commissions, the Department shall make and retain a copy and forward the originals" to the Fair Political Practices Commission. (Cal. Code Regs., title 14, § 18419, 2nd paragraph, 2nd sentence.)

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The Department currently has no boards or commissions and does not anticipate having any in the near future. Accordingly, the Department is deleting the phrase "and members of Boards and Commissions" from the code and making attendant edits to change the sentence from the plural to the singular case.

After these amendments, only the Director's statement will be covered by this sentence in the code, requiring the Department to make and retain a copy and forward the original to the Fair Political Practices Commission.

IV. Amendments To Appendix A: Designated Positions And Assigned Disclosure Categories

The list of positions the Department is designating as making or participating in making decisions and their applicable disclosure categories are listed in Appendix A of the code. (Cal. Code Regs., title 14, § 18419, App. A.) The specific amendments to Appendix A are presented below, along with an explanation of each proposed change.

A. Column Headings

Column headings are added at the beginning of the position and disclosure category listings. The left column heading is "POSITION." The right column heading is "DISCLOSURE CATEGORY."

B. Executive

The text "All employees in the following Executive Office classifications or series:" is added. This covers employees that report directly to the Department's Director or Chief Deputy Director.

The position title "Staff Services Manger" is added. Employees in these positions make or participate in making governmental decisions. The positions are assigned to disclosure categories 1 & 2 based on potential conflicts of interest associated with their duties.

1. Legal Office

The position title "Management Auditor" is added. Employees in these positions make or participate in making governmental decisions. The positions are assigned to disclosure categories 1 & 2 based on potential conflicts of interest associated with their duties.

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2. Policy Development And Analysis Office

The position title "Environmental Scientist" is added. 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.

3. Office Of Education And The Environment

The following position titles are added. 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.

Environmental Scientist
Staff Services Manager

C. Administration, Finance & Information Technology Services Division

The following position titles are deleted. The Division is no longer using these position titles.

Integrated Waste Management Specialist
Management Auditor
Data Processing Manager
Staff Services Manager (Information Technology Services Branch)
Recycling Specialist (Information Technology Services Branch)

The position title "Executive Assistant" is added. 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.

D. Materials Management And Local Assistance Division

The position title "Environmental Scientist" is added. Employees in these positions make or participate in making governmental decisions. The positions are assigned to disclosure category 3 and 4 based on potential conflicts of interest associated with their duties.

E. Waste Permitting, Compliance And Mitigation Division

The position title "Environmental Scientist" is added. Employees in these positions make or participate in making governmental decisions. The positions are assigned to

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disclosure category 4 and 5 based on potential conflicts of interest associated with their duties.

The position title "Recycling Specialist" is deleted. The Division is no longer using the position title.

F. Division Of Recycling

The following position titles are added. 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 Analyst
Questioned Document Examiner

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