

SUMMARY OF BOARD ITEM

ITEM # 00-9-4: Conflict of Interest Code Amendments

STAFF RECOMMENDATION: Staff recommends that the Board adopt the amendments as proposed.

DISCUSSION: As required by Government Code section 87300, the Board adopted in 1981 a Conflict of Interest Code, designating which members, employees and consultants are subject to specified categories of requirements. The Code must designate those who make or participate in making decisions which could affect private financial interests. Government Code section 87306 requires that the Code be amended periodically to reflect organizational changes and the adoption or deletion of positions that are legally required to be included.

For professional employees, the proposed amendments would add eight broader positions and would delete seventeen positions that have been abolished or included in broader positions. Eight broadened positions are: Analysts, Field Representatives, Managers, Officers, Programmers, Specialists, Supervisors, and Writers. Seventeen deleted positions are: Air Pollution Research Specialists, Air Pollution Specialists, Air Resources Field Representatives, Auto Emissions Test Supervisors, Data Processing Analysts, Data Processing Managers, Economists, Government Program Analysts, Information Officers, Information Systems Analysts, Information Systems Managers, Management Analysts, Research Analysts, Staff Analysts, Staff Services Managers, Telecommunication Systems Analysts, and Vehicle Pollution Advisors.

The proposed amendments would also delete the position of Assistant Executive Officer, add the new positions of Chief Deputy Executive Officer, special assistants, Contracts Analysts, Business Services Officer Supervisors, and Business Management Analysts, and would reflect the renaming and the

reorganization of the Planning and Technical Support Division.

SUMMARY AND IMPACTS:

This action involves no economic or environmental impact.

TITLE 17. CALIFORNIA AIR RESOURCES BOARD**NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF
AMENDMENTS TO REGULATIONS REGARDING THE CONFLICT OF
INTEREST CODE OF THE AIR RESOURCES BOARD**

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider the adoption of amendments to regulations regarding identification of designated employees and disclosure categories in the Board's Conflict of Interest Code.

DATE: September 28, 2000
TIME: 9:00 a.m.
PLACE: California Air Resources Board
Hearing Room
2020 L Street, Lower Level
Sacramento, California

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., September 28, 2000, and may continue at 8:30 a.m., September 29, 2000. This item may not be considered until September 29, 2000. Please consult the agenda for the meeting, which will be available at least 10 days before September 28, 2000, to determine the day on which this item will be considered.

This facility is accessible to persons with disabilities. If accommodation is needed, please contact the ARB's Clerk of the Board by September 14, 2000, at (916) 322-5594, or TDD (916) 324-9531, or (800) 700-8326 for TDD calls outside the Sacramento area, to ensure accommodation.

INFORMATIVE DIGEST OF PROPOSED ACTION

Sections Affected: Sections 95001, 95002, and 95005, title 17, California Code of Regulations (CCR).

Pursuant to the Political Reform Act of 1974 (Government Code section 81000 et seq.), the Board has adopted a Conflict of Interest Code. The Code designates the Board and staff positions that involve the making, or participation in the making, of decisions that may foreseeably have a material effect on financial interests. The Code also establishes disclosure categories that specify the kinds of financial interests that must be reported by the various designated employees. The staff is proposing amendments to the Code pursuant to Government Code

section 87306 to update the disclosure categories to reflect new positions, deletion of old positions, and reorganization of the Executive Office and Planning and Technical Support Division.

Section 95001 of title 17, CCR, lists those Board employees who are deemed "professional employees" for the purpose of disclosure required under these regulations. The proposed amendments would add eight positions: Analysts, Field Representatives, Managers, Officers, Programmers, Specialists, Supervisors, and Writers. The proposed amendments would delete seventeen positions: Air Pollution Research Specialists, Air Pollution Specialists, Air Resources Field Representatives, Auto Emissions Test Supervisors, Data Processing Analyst, Data Processing Managers, Economists, Government Program Analysts, Information Officers, Information Systems Analysts, Information Systems Managers, Management Analyst, Research Analysts, Staff Analysts, Staff Services Managers, Telecommunication Systems Analyst, and Vehicle Pollution Advisors.

Sections 95002 - 95006 of title 17, CCR, specify five categories of disclosure requirements. The proposed amendments to section 95002, title 17, CCR, include the additions to the Executive Office for the newly created positions of Chief Deputy Executive Officer, manager, specialists, special assistants, Contracts Analysts, Business Services Officer Supervisor, and Business Management Analysts. The sole proposed amendment to section 95005 of title 17, CCR reflects the renaming and the reorganization of the Planning and Technical Support Division in November 1998. Staff also proposes minor, grammatical and clarifying changes to these regulations.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSON

The Board staff has prepared a Staff Report which includes the initial statement of reasons for the proposed action and a summary of the environmental impacts of the proposal, if any. The Staff Report and the full text of the proposed amendments in underline and strikeout format may be obtained from the Board's Public Information Office, 2020 L Street, Sacramento, CA 95814, (916) 322-2990. The Board staff has compiled a record that includes all information upon which the proposal is based. This material is available for inspection upon request to the agency contact person identified immediately below.

Further inquiries regarding this matter should be directed to Dr. Ash Lashgari, at (916) 323-1506, klashgar@arb.ca.gov (email), or 2020 L Street, 4th Floor, Sacramento, CA 95814.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred in reasonable compliance with the proposed regulations are presented below.

The Executive Officer has determined that the proposed regulatory action will not create costs or savings, as defined in Government Code section 11346.5(a)(6), to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code, or other non-discretionary savings to local agencies.

The Executive Officer has also determined that adoption of the proposed regulatory action will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

Finally, the Executive Officer has determined that there will be no, or an insignificant, potential cost impact, as defined in Government Code section 11346.3, on private persons or businesses directly affected resulting from the proposed action. The Executive Officer has determined that no alternative considered by the agency would be more effective in carrying out the purpose of this regulation or would be as effective and less burdensome to affected private persons than the proposed amendment.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing. To be considered by the Board, written submissions must be addressed to and received by the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, CA 95812, no later than 12:00 noon, September 27, 2000, or received by the Clerk of the Board at the hearing. To be considered by the ARB, e-mail submissions must be addressed to conflict@listserv.arb.ca.gov and received at the ARB no later than 12:00 noon, September 27, 2000.

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

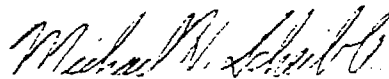
This regulatory action is proposed under that authority granted in sections 39600 and 39601 of the Health and Safety Code, and sections 87300 and 87306 of the Government Code. The regulatory amendments are proposed to implement, interpret, or make specific sections 82019, 87300, 87301, 87302, and 87500 of the Government Code, and section 18730 of title 2, California Code of Regulations.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted. The public may request a copy of the modified regulatory text from the Board's Public Information Office, 2020 L Street, Sacramento, CA 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD



for Michael P. Kenny
Executive Officer

Date: July 18, 2000

State of California
AIR RESOURCES BOARD

**STAFF REPORT: INITIAL STATEMENT OF REASONS FOR
RULEMAKING**

**PROPOSAL TO ADOPT AMENDMENTS TO REGULATIONS
REGARDING THE CONFLICT OF INTEREST CODE OF THE AIR
RESOURCES BOARD**

Date of Release: July 28, 2000

Scheduled for Consideration: September 28, 2000

This report has been reviewed by the staff of the California Air Resources Board and approved for publication. Approval does not signify that the contents necessarily reflect the views and policies of the Air Resources Board, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.

State of California
AIR RESOURCES BOARD

**Staff Report: Initial Statement of Reasons
for Proposed Rulemaking**

**PUBLIC HEARING TO CONSIDER THE PROPOSAL TO ADOPT
AMENDMENTS TO REGULATIONS REGARDING THE CONFLICT OF
INTEREST CODE OF THE AIR RESOURCES BOARD**

Date of Release: July 28, 2000

Scheduled for Consideration: September 28, 2000

I. INTRODUCTION AND BACKGROUND

Pursuant to the Political Reform Act of 1974 (Government Code section 81000 et seq.), the Air Resources Board (the Board) adopted a Conflict of Interest Code. The Board's Code is set forth in sections 95000 through 95007, title 17, California Code of Regulations (CCR);¹ section 95000 incorporates by reference the Standard Conflict of Interest Code established by the Fair Political Practices Commission ("FPPC") in section 18730, title 2, California Code of Regulations. The Board's Code designates the Board and staff positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on financial interests. The Board's Code also establishes disclosure categories that specify the kinds of financial interests that must be reported by the various designated employees. Government Code section 87306 requires that the Board review its Code biennially, and amend its Code as appropriate, to reflect changed circumstances including the creation of new positions.

The Board adopted substantive amendments to its Conflict of Interest Code in 1993 and the Code was further modified with non-substantive amendments in 1997. Since then, the Air Resources Board has reorganized and restructured its Executive Office. The Board has also added new positions to its professional classifications, deleted positions from these classifications, and has reorganized its Technical Support Division into the Planning and Technical Support Division. As a result, staff is proposing amendments to the Conflict of Interest Code to reflect the position changes for the designated employees subject to reporting requirements. The amendments would also specify the appropriate disclosure categories. The language proposed to reflect these organizational changes does not relieve any reporting requirements for any employee

¹ All section references that follow, unless otherwise specified, are to title 17, California Code of Regulations.

who is currently required to disclose. The proposed amendments, including certain minor grammatical and clarifying changes, are set forth in Attachment A. Amendments to Conflict of Interest Codes must be submitted to the FPPC for approval prior to filing with the Office of Administrative Law.

II. AMENDMENTS TO THE CONFLICT OF INTEREST CODE

A. Professional Employees

Section 95001, title 17, CCR, lists by employment classification the positions that are deemed "professional employees" for the purpose of the Conflict of Interest Code disclosure requirements. The proposed amendments add employment classifications for the newly created positions of Programmers and Writers (Research). These newly added employment classifications may participate in the making of decisions which may foreseeably have a material effect on financial interests. As a result, Government Code section 87300 et seq. requires the inclusion of these positions in the Conflict of Interest Code.

The proposed amendments also delete positions of Data Processing Analysts, Management Analysts, and Telecommunication Systems Analysts as these positions no longer exist at the Air Resources Board. To broaden and simplify employment classifications, the proposed amendments further delete the positions of Air Pollution Research Specialists, Air Pollution Specialists, Air Resources Field Representatives, Auto Emissions Test Supervisors, Data Processing Managers, Economists, Government Program Analysts, Information Officers, Information Systems Analysts, Information Systems Managers, Research Analysts, Staff Analysts, Staff Services Managers, and Vehicle Pollution Advisors. In their place, the proposed amendments add the broader classifications of Analysts, Field Representatives, Managers, Officers, Specialists, and Supervisors.

Thus, the Supervisors classification includes new positions of Air Resources Supervisors and the Engineers classification includes new positions of Air Resources Engineers. And, the Managers classification includes the new positions of Research Managers. Because all economists at Air Resources Board are now Research Analysts, the Analysts classification now includes the position of Economists. To be consistent with organization charts, all Staff Analysts at the Air Resources are now Staff Services Analysts and the broader Analysts classification includes Staff Services Analysts. All Vehicle Pollution Advisors are now Vehicle Program Specialists and the broader Specialists classification includes Vehicle Program Specialists.

B. Category

Section 95002, title 17, CCR, lists those persons who fall within this category and are subject to the broadest disclosure requirements as set forth in subsection (b). The proposed amendments, reflecting recent organizational restructuring of the Air Resources Board, add the positions of Chief Deputy Executive Officer, special assistants, Contracts Analysts, Business Services Officer Supervisors, and Business Management Analysts.

These added positions are included in this disclosure category because it is reasonably foreseeable that in exercising the duties of these positions, the private economic interests of the incumbents may be materially affected. Therefore, Government Code section 87300 et seq. requires their inclusion in the Conflict of Interest Code. Because the range of private economic interests to be affected by these positions is a general one, it is proposed that these positions be included in the broadest disclosure category.

The proposed amendments also delete the designation of Assistant Executive Officer and Regional Administrative Officer of the Administrative Services Division because these classifications are no longer used at the Air Resources Board. The proposed amendments also remove "Chair and Executive Office" from title of Special Office Chiefs position as it is duplicative because all the designated positions within Category I are those attached to the Chair's Office and to the Executive Office as referenced.

C. Category IV

The sole proposed amendment to the category set forth in section 95005, title 17, CCR, reflected the renaming and reorganization of the Technical Support Division into Planning and Technical Support Division. The division was reorganized in November 1998.

III. AIR QUALITY, ENVIRONMENTAL AND ECONOMIC IMPACTS

The Air Resources Board has determined that these actions will create no additional costs or savings to any state agency or in federal funding to the state. Furthermore, there will be no costs or mandates incurred to any local agency or school district, whether or not reimbursable by the state, within the meaning of section 6 of Article XIII of the California Constitution and Government Code section 17500 et seq.

The Air Resources Board has determined that the proposed action would not have a significant adverse economic impact on small businesses and other businesses. In developing the proposal, the Board staff has also considered the potential cost impact of the proposed action on private persons or businesses directly affected. The Board staff anticipates that the proposed action would not cause such persons or businesses necessarily to incur significant costs of compliance. The proposed action would not result in any significant adverse environmental impacts.

Attachment²

² The Attachment to the Staff Report: Initial Statement of Reasons for Rulemaking is the Proposed Regulation Order.

Attachment A

**PROPOSED TEXT OF REGULATIONS FOR CONFLICT OF
INTEREST CODE**

Amend Sections 95001, 95002, and 95005, 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**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:

~~Air Pollution Research Specialists~~
~~Air Pollution Specialists~~
~~Air Resources Field Representatives~~
Analysts
~~Auto Emissions Test Supervisors~~
Biostatisticians
Chemists
~~Data Processing Analysts~~
~~Data Processing Managers~~
Economists
Engineers
Field Representatives
~~Government Program Analysts~~
~~Information Officers~~
~~Information Systems Analysts~~
~~Information Systems Managers~~
~~Management Analysts~~
Managers
Meteorologists
Officers
Programmers
~~Research Analysts~~
Spectroscopists
Specialists
Staff Analysts
~~Staff Services Managers~~
Supervisors
~~Telecommunications systems Analysts~~

Toxicologists
 Transportation Planners
~~Vehicle Pollution Advisers~~
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) Air Resources Board Members, 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, ~~Assistant Executive Officer~~, all ~~Chair and Executive Office~~ Special Office Chiefs, all Division Chiefs and Assistant Division Chiefs, all 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 and the ~~Regional Administrative Officer of the Administrative Services Division~~.

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

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.

95005. Category IV.

(a) All professional employees in and special consultants* attached to the Compliance Division, the Planning and Technical Support Division and the Monitoring and Laboratory Division.

* 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.)

(b) Every person in this Category must report: all investments in, income 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 law of the control of air pollution from vehicular or non-vehicular 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.

