

SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT

**RULE 177 – INSPECTION OF PUBLIC RECORDS**

*(Rev. Adopted and Effective June 20, 2001)*

(a) It is the policy of the Air Pollution Control District that all records not exempted from disclosure by state law shall be open for public inspection with the least possible delay and expense to the requesting party.

(b) A request to inspect public records in the custody of the District must be submitted in writing and describe the records requested with sufficient specificity to enable the District to identify the information sought.

(c) A request to inspect public records should be addressed to Public Records Review, San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123.

(d) The District shall determine if the records requested can be made available within ten (10) days after receipt of the request. If, under unusual circumstances as defined in Section 6253(c) of the Government Code, this determination cannot be made within ten (10) days, the District will notify the requesting person of the reasons for the delay and when the determination is expected to be completed. (This extension is limited to an additional 14 days.) Records labeled as "trade secret" shall be governed by the procedure set forth in Section (f) of this rule.

If the records cannot be made available, the District shall state the specific reason. Reasons for unavailability may be, but are not limited to, the following: the records are exempt from disclosure by state law; the records cannot be identified from the information contained in the request; the records do not exist; the District has determined pursuant to Section 6255 of the Government Code that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the records; or the records in question are not in custody of the District. In the latter situation the District shall, if possible, notify the requesting party of the entity most likely to have custody of the records requested. If the District determines the requested records cannot be made available, the District will also provide the requestor with the name and title of each person responsible for the determination.

(e) As soon as possible after the District has determined if the records can be made available, the District shall advise the requesting person of the following facts:

(1) The location at which the public records in question may be inspected, and the date and office hours during which they may be inspected.

(2) If copies of the public records are requested, the cost of providing such copies.

(3) Which of the records requested, if any, have been labeled as "trade secret" and are not public records. In such a case, the District shall give the notice required by Section (g) of this rule.

(f) Only those portions of records in the custody of the District which are not emission data and (1) were labeled "trade secret" prior to May 22, 1974, (2) are hereafter specifically labeled as "trade secret" pursuant to Rule 176(b), or (3) are received from a state or other local agency, including an air pollution control district, with a "trade secret" designation, shall be subject to the procedure set forth in the following Section (g) of this rule. All other portions of such records shall be made available pursuant to Sections (a) through (e) of this rule.

(g) When the District receives a request to inspect any records labeled with a "trade secret" designation which is not emission data, it shall promptly notify the requesting party that such record is designated a trade secret under Rule 176(b), and, if such is the case, under law it cannot be made available. The notification shall contain a copy of the justification of the request for confidentiality, and if the party requesting the record considers the justification inadequate, he may so advise the District in writing, setting forth his reasons.

Upon receipt of such advice, the Air Pollution Control Officer shall (1) promptly review in detail the justification, the challenge to the justification, and the record; (2) determine if the record is in its entirety a trade secret; and (3) promptly notify those persons affected of its decision in writing. If the Air Pollution Control Officer withholds the record from inspection, the person requesting it may seek judicial relief under Section 6258 of the Government Code. If the District determines that the record is in any significant part not a trade secret, the District shall send notice by certified mail, return receipt requested, to the person designating the information as a trade secret, with an additional notice that the record in question shall be released for inspection to the requesting party twenty-one days after receipt of the notice, unless the District is restrained from so doing by a court of competent jurisdiction.

Should the person designating the record as a trade secret seek protection in a court of law, the requesting party may be made a party to the litigation to justify his challenge to the designation.