

Ocean-Going Vessel Survey

February 2007



RETURN DATE: March 31, 2007

California Environmental Protection Agency



Air Resources Board

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IF YOUR PACKET IS MISSING ANY ITEMS LISTED ABOVE, PLEASE CONTACT:

Ms. Kathleen Truesdell at (916) 327-5638 or ktruesde@arb.ca.gov

Facsimile number (916) 327-6251

Section I

Survey Forms

(These are the forms you will return to
the California Air Resources Board)

CALIFORNIA AIR RESOURCES BOARD SHIP SURVEY
PART I: COMPANY AND CONTACT INFORMATION

Confidential

Company Name:

Division Name:

Mailing Address:

City:

State / Province:

Zip Code:

Country:

Contact Person:

Title:

Phone:

Fax:

Email Address:

Do you consider any part of this survey to be confidential?

No

Yes

Type of Business : Deep Sea Transportation of Freight Deep Sea Transportation of Passengers Other , Specify:

Print Name:	Title:
Signature:	Date:

CALIFORNIA AIR RESOURCES BOARD SHIP SURVEY

Part II. SHIP AND ENGINE INFORMATION

(Please complete one form per vessel that visited California in 2006)

Confidential

SHIP INFORMATION

Vessel Name: _____	Lloyds/IMO #: _____	Country: _____	Flag: _____	Date Built: _____
Vessel Type: _____	Ship Electrical Power: _____	Volts: _____	Hertz (Hz): _____	Phase: _____
Gross Tonnage (GT): _____	Net Tonnage (NT): _____	Deadweight Tonnage (DWT): _____	metric tons	
Average Daily Fuel Consumption at Normal Cruise Speed at Sea: _____		metric tons		

Direct Drive Main Engine/s (Note: For diesel-electric/generator-set engines on cruise ships, etc. please list under "auxiliary engines" below)

Number of main engines: _____	Engine Type: <input type="checkbox"/> diesel piston <input type="checkbox"/> gas turbine <input type="checkbox"/> steam turbine	If diesel engine, type? <input type="checkbox"/> two stroke <input type="checkbox"/> four stroke
Make: _____	Date Built: _____	
Model: _____	Rated Power at MCR: _____	<input type="checkbox"/> kW <input type="checkbox"/> hp RPM at MCR: _____
Fuel Used #1: <input type="checkbox"/> Residual <input type="checkbox"/> Distillate _____ %S	Fuel Used #2: <input type="checkbox"/> Residual <input type="checkbox"/> Distillate _____ %S	
Average cruise power at sea: _____	<input type="checkbox"/> kW <input type="checkbox"/> hp	Average cruise speed at sea: _____ Knots
Please describe any engine modifications completed to either improve fuel efficiency or reduce emissions (e.g., slide valves): _____		

Auxiliary Engines (and all diesel-electric engines, whether for ship propulsion or on-board power). Exclude emergency/standby engines.

	Engine #1		Engine #2		Engine #3		Engine #4		Engine #5		Engine #6	
Make:												
Model:												
Date Built:												
Rated Power at MCR:	<input type="checkbox"/> kW <input type="checkbox"/> hp											
Engine Type:	<input type="checkbox"/> Turbine <input type="checkbox"/> Diesel Piston <input type="checkbox"/> 4 stroke <input type="checkbox"/> 2 stroke		<input type="checkbox"/> Turbine <input type="checkbox"/> Diesel Piston <input type="checkbox"/> 4 stroke <input type="checkbox"/> 2 stroke		<input type="checkbox"/> Turbine <input type="checkbox"/> Diesel Piston <input type="checkbox"/> 4 stroke <input type="checkbox"/> 2 stroke		<input type="checkbox"/> Turbine <input type="checkbox"/> Diesel Piston <input type="checkbox"/> 4 stroke <input type="checkbox"/> 2 stroke		<input type="checkbox"/> Turbine <input type="checkbox"/> Diesel Piston <input type="checkbox"/> 4 stroke <input type="checkbox"/> 2 stroke		<input type="checkbox"/> Turbine <input type="checkbox"/> Diesel Piston <input type="checkbox"/> 4 stroke <input type="checkbox"/> 2 stroke	
Fuel Type used within 24 nm of CA baseline:	<input type="checkbox"/> MGO	%S										
	<input type="checkbox"/> MDO	%S										
Average total ship power generated from engines #1-6 above	At Sea:				<input type="checkbox"/> kW <input type="checkbox"/> hp		Maneuvering:				<input type="checkbox"/> kW <input type="checkbox"/> hp	
									Hotelling:			

Auxiliary Engine QUESTIONS:

Did you make vessel modifications to comply with the California Auxiliary Engine Fuel Regulation? (California Health and Safety Code, sections 43013, 43018, and 39666; title 13, California Code of Regulations (CCR), section 2299.1; title 17, CCR, section 93118)

Yes No If Yes, what modifications did you make?
 Date modifications completed:
 Cost of modifications: \$
 Where were the modifications performed?

Main Engine QUESTIONS:

Would requiring low sulfur MGO use in main engines while operating out to **24 nautical miles from the California baseline** require modification of the vessel?
 Yes No If Yes, please comment below.

Check boxes for modifications required and estimate cost (if unable to provide individual cost estimates, please estimate total modification cost \$):
 fuel tank(s) \$ cylinder lube oil system \$ fuel valves \$ fuel piping and pumps \$
 engine fuel pumps \$ engine fuel injectors \$
 Other, please explain other modifications that will be required and estimate the associated costs:

Would requiring low sulfur MGO use in main engines while operating out to **50 nautical miles from the California baseline** require modification of the vessel?
 Yes No If Yes, please comment below.

Check boxes for modifications required and estimate cost (if unable to provide individual cost estimates, please estimate total modification cost \$):
 fuel tank(s) \$ cylinder lube oil system \$ fuel valves \$ fuel piping and pumps \$
 engine fuel pumps \$ engine fuel injectors \$
 Other, please explain other modifications that will be required and estimate the associated costs:

Would requiring low sulfur MGO use in main engines while operating out to **100 nautical miles from the California baseline** require modification of the vessel?
 Yes No If Yes, please comment below.

Check boxes for modifications required and estimate cost (if unable to provide individual cost estimates, please estimate total modification cost \$):
 fuel tank(s) \$ cylinder lube oil system \$ fuel valves \$ fuel piping and pumps \$
 engine fuel pumps \$ engine fuel injectors \$
 Other, please explain other modifications that will be required and estimate the associated costs:

Vessels That Transport Refrigerated Containers

What power is required during loading and unloading of refrigerated containers?	kW	What power is required while hotelling?	kW
On average, how many refrigerated containers are imported to a California port?	Exported?		
Time required for unloading refrigerated containers:	hours	Time required for loading refrigerated containers:	hours
Please comment on any seasonality impacts on refrigerated container volume in the comments section.			

Comments (please use additional sheets if necessary):

Section II

Survey Overview and Instructions

SURVEY OVERVIEW

The California Air Resources Board's (ARB) oceangoing vessel survey (Survey) is intended to collect information about the various oceangoing vessels operating in California's coastal waters. This information is being collected to help support emission reduction activities. Below, we have provided information about the Survey in a question and answer format.

What is the ARB's authority to conduct this Survey?

This request for information is made pursuant to sections 39600, 39607, 39665, 39701, 41511 and 43013 of the California Health and Safety Code, title 17, California Code of Regulations sections 91100 to 91102 (CCCR). These sections authorize the ARB to require the submission of information needed by the ARB to estimate atmospheric emissions and carry out its other statutory responsibilities.

Who should complete the Survey form?

All owners/operators of oceangoing vessels that visited California in 2006 are being asked to complete the Survey. OGV means any marine vessel that meets any one of the following criteria:

- (1) a vessel greater than or equal to 400 feet in length overall (LOA) as defined in 50 CFR § 679.2, as adopted June 19, 1996.
- (2) a vessel of 10,000 gross tons (GT ITC) or greater per the convention measurement (international system) as defined in 46 CFR 69.51-.61, as adopted September 12, 1989.
- (3) a vessel propelled by a marine diesel engine with a per-cylinder displacement of 30 liters or more (United States Environmental Protection Agency "category 3" engine).

This Survey is not intended to apply to commercial harbor craft such as commercial fishing vessels, tugs, or ferry vessels that do not otherwise meet any of the above criteria.

Why is the Survey necessary?

The ARB maintains a statewide emissions inventory for all sources of air emissions such as cars, trucks, marine vessels, construction equipment, industrial facilities, and architectural coatings. The ARB's emissions inventory is regularly updated to reflect the most up-to-date emission information, including results of surveys such as this one.

The oceangoing vessel (OGV) component in the emissions inventory was last updated in 2004. It is necessary for us to gather information about the current in-use fleets entering California coastal waters.

The Survey is also designed to provide technical information that will help us develop more effective programs to reduce emissions from oceangoing ships.

Do I have to complete the Survey?

Yes. State law requires that you provide the requested information by completing and returning the Survey. If the Survey does not apply to you, please state in the Survey why it does not apply to you and return it to the address indicated.

If I submitted the Survey in 2004, do I need to complete this Survey?

Yes. All owners or operators of ships that visited California in 2006 should fill out and return this Survey.

What information needs to be provided in the Survey?

The Survey requests specific information about each vessel. This includes information related to vessel operation and ownership. The Survey also requests information on the propulsion and auxiliary engines, including the make and model, the rated power, the year engines were built, and any modifications required to operate on marine gas oil. Information on the typical operating parameters is also requested, including normal cruise speed at sea, and average total ship in-use power generated.

If the Survey information is claimed as confidential, how will it be treated?

The ARB has adopted regulations to protect the confidentiality of trade secrets (Title 17, CCR, sections 91000 to 91022). A summary of ARB's confidentiality regulations can be found in Section II of the Survey on the "Confidential Information Submittal Form." You should fill out this form if you wish to designate any Survey information as confidential.

When do I need to return the Survey, and where do I send it?

Please return the Survey by March 31, 2007 to:

California Air Resources Board
Stationary Source Division
Attn: Ms. Kathleen Truesdell
P.O. Box 2815
Sacramento, CA 95812-2815
CONFIDENTIAL MATERIALS ENCLOSED (if applicable)

Or e-mail completed surveys to:

ktruesde@arb.ca.gov

In an effort to simplify and streamline the data gathering process, we have made the Survey forms available electronically. You may download a copy from our website:

<http://www.arb.ca.gov/ports/marinevess/survey.htm>

Who can I call if I have questions about the Survey?

If you have any questions, please contact either of the following staff persons:

Kathleen Truesdell	(916) 327-5638	ktruesde@arb.ca.gov
Bonnie Soriano	(916) 327-6888	bsoriano@arb.ca.gov

SURVEY INSTRUCTIONS

Before you begin filling out the Survey form, please read the instructions carefully. Included for your assistance are sample forms.

THE SURVEY FORM

Explanations for each Survey data field are provided below. If you own and/or operate more than one vessel, please complete the ship and engine information (Part II) for each vessel you own/operate. If you need additional forms, those can be downloaded from the

<http://www.arb.ca.gov/ports/marinevess/survey.htm>

If that method is unavailable to you, please contact Kathleen Truesdell at (916) 327-5638 or ktruesde@arb.ca.gov, and she will work with you to make arrangements to get you additional forms.

Part I: Survey Data Fields

Company and Contact Information

Company Name/Division Name: Please enter the name of the company that owns/operates the vessel in the Survey.

Contact Name (and title): Enter the name and title of the person to be contacted by the ARB if we have questions about the information provided.

Address/City/State/ZIP Code: Mailing address, city, state, ZIP code, and country of the company.

Phone/Fax Number: Enter the phone and fax number of the contact person.

E-mail Address: Enter the e-mail address of the contact person.

Confidential: Please indicate if you would like the ARB to treat your information as confidential. If you designate information as confidential, you also need to fill out the confidential information submittal form (**see page 16 of this package**) and return it with your Survey.

Type of Business: Please place a mark (an "x" or a check mark) in the appropriate box indicating whether the business is involved in the deep sea transportation of freight, deep sea transportation of passengers, or another type of oceangoing vessel business.

Sign and Date: Please print name, title and date. Sign name in the designated area.

Part II: Ship and Engine Information

Ship Information

Confidential: Please indicate if you would like the ARB to treat your information as confidential. If you designate information as confidential, you also need to fill out the confidential information submittal form (**see page 16 of this package**) and return it with your Survey.

Vessel Name: Enter the vessel name for which the data is being provided.

Lloyds/IMO Number: Enter the vessel Lloyds Registration # or International Maritime Organization (IMO) documentation number assigned to your vessel.

Country Flag: Enter the name of the country the vessel is registered under.

Date Vessel Built: Enter the date the vessel was built.

Vessel Type: Enter the most appropriate vessel type. (e.g. container, tanker, bulk carrier, passenger cruise, auto carrier, general cargo, reefer, RoRo, or other)

Ship Electric Power: Enter the voltage, frequency in hertz, and phase of the power generated for ship board power (such as lighting and navigation) by ships generator(s).

Tonnage: Enter Gross Tonnage (GT), Net Tonnage (NT), and Deadweight Tonnage (DWT) in metric tons.

Fuel Consumption: Enter average daily fuel consumption at average cruise speed at sea.

Main Engine Information

Number of Main Engines: Enter number of main engines. For most cargo vessels there will be a single main engine (used primarily for propulsion). For diesel-electric vessels (such as cruise ships) where propulsion is provided by gen-sets that also provide power for shipboard electricity, skip this section and enter gen-sets as "auxiliary engines".

Engine Type: Please place a mark (an "x" or a check mark) in the appropriate box indicating whether the engine is a diesel piston engine, gas turbine, or steam turbine. For diesel main engines, mark whether the engine is a two- or a four-stroke engine.

Engine Make and Model: Please provide the name of the manufacturer and the model of each main engine on the vessel. If there is more than one main engine of the same:

make, model, horsepower, and age, you would write "X2" next to the make and model information.

or,

if there are more than two main engines and they are different types, explain under "comments".

Date Engine Built: Enter the date the engine was built.

Rated Power at Maximum Continuous Rating (MCR): Enter the main engine's MCR and indicate units (kilowatts or horsepower).

RPM at MCR: Enter the revolutions per minute at the maximum continuous rating.

Fuel Used: Enter the type(s) of fuel(s) used in the main engine(s) (residual = IFO 180 or 380, distillate = MDO or MGO) and your best estimate of the average percent sulfur content(s). If two different fuels are stored on the vessel for the main engine, please list main fuel in #1 and other in #2.

Average Cruise Power at Sea: Enter your best estimate of average (normal) cruise power at sea and indicate units (kilowatts or horsepower).

Average Cruise Speed as Sea: Enter your best estimate of average (normal) cruise speed at sea (in knots).

Auxiliary Engine Information

Engine Make and Model: Please provide the name of the manufacturer and the model of each auxiliary engine on the vessel. Please do not list emergency generators that would not normally operate in routine service.

Date Engine Built: Please enter the date the auxiliary engine was built.

Rated Power at MCR: Enter each auxiliary engine's MCR and indicate units (kilowatts or horsepower).

Engine Type: Please place a mark (an "x" or a check mark) in the appropriate box indicating whether the engine is a diesel piston engine, gas turbine, or steam turbine. For diesel engines, mark whether the engine is a two- or a four-stroke engine.

Fuel Type: Please place a mark (an "x" or a check mark) in the appropriate box indicating whether the fuel type used within 24 nautical miles of California Baseline is MDO or MGO and your best estimate of the average percent sulfur level in the fuel.

Average Total Ship In-Use Power Generated: Enter your best estimate for the total power generated from the auxiliary engines, at sea, maneuvering, and hotelling. If you cannot estimate an average put the range in the comment section. Please place a mark (an "x" or a check mark) specifying kilowatts or horsepower.

Auxiliary Engine Questions Related Vessel Modifications Made to Comply with the Auxiliary Engine Fuel Regulation.

Indicate whether modifications were made to the vessel in order to comply with the California Auxiliary Engine Fuel Regulation. If yes, please explain what modifications were made, when they were made, approximately how much the modifications cost to complete, and where the modifications were performed.

Main Engine Questions Related to the Potential Use of Low Sulfur Distillate (MGO) fuel in Main Engine(s).

Indicate whether modifications to this vessel would be needed if a regulation required the use of low sulfur MGO by main engines operating within 24 nautical miles from the California baseline.

“California Baseline” means the mean lower low water line along the California coast, as shown on the following National Oceanic and Atmospheric Administration (NOAA) Nautical Charts as authored by the NOAA Office of Coast Survey, which are incorporated herein by reference:

- (A) Chart 18600, Trinidad Head to Cape Blanco (January 2002);
- (B) Chart 18620, Point Arena to Trinidad Head (June 2002);
- (C) Chart 18640, San Francisco to Point Arena (August 2005);
- (D) Chart 18680, Point Sur to San Francisco (June 2005);
- (E) Chart 18700, Point Conception to Point Sur (July 2003);
- (F) Chart 18720, Point Dume to Purisima Point (January 2005); and
- (G) Chart 18740, San Diego to Santa Rosa Island (April 2005).

For example, would an extra tank be needed to hold the MGO? If modifications would be required, please check the appropriate boxes and estimate the associated costs of these modifications. For modifications other than those listed, briefly explain and estimate associated cost. If you are unable to estimate cost for each modification, please estimate total cost of modifications.

Please indicate how modifications would be different if a regulation required the use of low sulfur MGO within 50 nautical miles from the California baseline.

Refrigerated Containers: If the vessel transports refrigerated containers, please estimate the power generated from the auxiliary engines at dock while unloading and loading refrigerated containers, and while hotelling. Please estimate the average number of refrigerated containers the vessel imports and exports to a California port on a typical voyage. Please estimate the number of hours it takes to unload and load refrigerated containers. If the number of refrigerated containers changes significantly by season, please explain.

Section III

Supporting Attachments

- A) Survey "Example Only" Forms
- B) Confidential Information Submittal Form
- C) Excerpts from the California Code of Regulations pertaining to the handling of confidential information:
Title 17, California Code of Regulations, Sections 91000 to 91110

CALIFORNIA AIR RESOURCES BOARD SHIP SURVEY

PART I: COMPANY AND CONTACT INFORMATION

Confidential

Company Name: __Beyer Shipping Company

Division Name: __Marine Container Division

Mailing Address: _1234 Terminal Way

City: __Los Angeles

State / Province: __CA

Zip Code: __99901

Country: __USA

Contact Person: __Mr. Peter Beyer

Title: __Vice President

Phone: ___(555) 767-2678

Fax: ___(555) 767-2676

Email Address: ____pbeyer@address.net

Do you consider any part of this survey to be confidential?

No

Yes

Type of Business : Deep Sea Transportation of Freight Deep Sea Transportation of Passengers Other , Specify: _____

Print Name: Peter Beyer	Title: Vice President
Signature:	Date: March 1, 2007

Auxiliary Engine QUESTIONS:

Did you make vessel modifications to comply with the California Auxiliary Engine Fuel Regulation? (California Health and Safety Code, sections 43013, 43018, and 39666; title 13, California Code of Regulations (CCR), section 2299.1; title 17, CCR, section 93118)

Yes No If Yes, what modifications did you make? _____

Date modifications completed: _____

Cost of modifications: \$_____

Where were the modifications performed? _____

Main Engine QUESTIONS:

Would requiring low sulfur MGO use in main engines while operating out to **24 nautical miles from the California baseline** require modification of the vessel?

Yes No If Yes, please comment below.

Check boxes for modifications required and estimate cost (if unable to provide individual cost estimates, please estimate total modification cost \$_____):

fuel tank(s) \$_____ cylinder lube oil system \$_____ fuel valves \$_____ fuel piping and pumps \$_____

engine fuel pumps \$_____ engine fuel injectors \$_____

Other, please explain other modifications that will be required and estimate the associated costs:

How would the above estimates change if low sulfur MGO was used in main engines while operating out to **50 nautical miles from the California baseline** ?

Vessels That Transport Refrigerated Containers

What power is required during loading and unloading of refrigerated containers? 2000 kW	What power is required while hotelling? 1500 kW
On average, how many refrigerated containers are imported to a California port? 30 Exported? 30	
Time required for unloading refrigerated containers: 9 hours	Time required for loading refrigerated containers: 9 hours
Please comment on any seasonality impacts on refrigerated container volume in the comments section.	

Comments: _____

Oceangoing Vessel Survey

CONFIDENTIAL INFORMATION SUBMITTAL FORM

If you wish to designate any information contained in your survey data as **CONFIDENTIAL INFORMATION**, please provide the information requested below and return it with your completed Survey form.

In accordance with Title 17, California Code of Regulations (CCR), Sections 91000 to 91022, and the California Public Records Act (Government Code Section 6250 et seq.), the information that a company provides to the Air Resources Board (ARB) may be released (1) to the public upon request, except trade secrets which are not emissions data or other information which is exempt from disclosure or the disclosure of which is prohibited by law, and 2) to the Federal Environmental Protection Agency, which protects trade secrets as provided in Section 114(c) of the Clean Air Act and amendments thereto (42 USC 7401 et seq.) and in federal regulation, and 3) to other public agencies provided that those agencies preserve the protections afforded information which is identified as a trade secret, or otherwise exempt from disclosure by law (Section 39660(e)).

Trade secrets, as defined in Government Code 6254.7, are not public records and therefore will not be released to the public. However, the California Public Records Act states that air pollution emission data are always public records, even if the data comes within the definition of trade secrets. Even so, the information used to calculate air pollution data is not "emission data," and will not be released to the public if it is a trade secret.

If any company believes that any of the information it may provide is a trade secret or otherwise exempt from disclosure under any provision of law, it **must identify the confidential information as such at the time of submission to the ARB and must provide the name, address, and telephone number of the individual to be consulted.** If the ARB receives a request for disclosure or seeks to disclose the data claimed to be confidential, the ARB may ask the company to provide documentation of its claim of trade secret or exemption at a later date. Data identified as confidential will not be disclosed unless the ARB determines, in accordance with the above referenced regulations, that the data do not qualify for a legal exemption from disclosure. The regulations establish substantial safeguards before any such disclosure.

In accordance with the provisions of Title 17, California Code of Regulations, Sections 91000 to 91022, and the California Public Records Act (Government Code Sections 6250 et seq.)

Enter Company Name: _____

declares that only those portions specifically identified (by checking the upper right-hand corner confidentiality box on each form) and submitted in response to the California Air Resources Board's information request on the Survey are confidential "trade secret" information, and requests that it be protected as such from public disclosure.

We have designated confidential information by page for each survey data form submitted by checking (x) the upper right-hand corner confidentiality box.

Printed Name: _____

Title: _____

Signature: _____

Date: _____

Mailing Address: _____

City/State: _____

Zip/Country: _____

Telephone Number: _____

E-mail Address: _____

**EXCERPTS FROM THE CALIFORNIA CODE OF REGULATIONS
PERTAINING TO THE HANDLING OF CONFIDENTIAL INFORMATION:
TITLE 17, CALIFORNIA CODE OF REGULATIONS,
SECTIONS 91000 TO 91122**

**Division 3, Air Resources Board
Chapter 1, Air Resources Board
Subchapter 4. Disclosure of Public Records
Article 1. General**

§91000. Scope and Purpose.

This subchapter shall apply to all requests to the state board under the California Public Records Act (Government Code Sections 6250 et seq.) for the disclosure of public records or for maintaining the confidentiality of data received by the state board. Written guidelines shall govern the internal review of such requests.

NOTE: Authority cited: Sections 39600 and 39601(a), Health and Safety Code. Reference: California Public Records Act, Chapter 3.5 (commencing with Section 6250), Division 7, Government Code.

§91001. Disclosure Policy.

It is the policy of the state board 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.

NOTE: Authority cited: Sections 39600 and 39601(a), Health and Safety Code. Reference: Section 6253, Government Code; Black Panther Party v. Kehoe (1974) 42 Cal.App.3d 645.

Article 2. Board's Requests for Information

§91010. Request Procedure.

The state board shall give notice to any person from whom it requests information that the information provided may be released (1) to the public upon request, except trade secrets which are not emission data or other information which is exempt from disclosure or the disclosure of which is prohibited by law, and (2) to the federal Environmental Protection Agency, which protects trade secrets as provided in Section 114(c) of the Clean Air Act and amendments thereto (42 USC 7401 et seq.) and in federal regulations.

NOTE: Authority cited: Sections 39600, 39601 and 39602, Health and Safety Code.

**EXCERPTS FROM THE CALIFORNIA CODE OF REGULATIONS
PERTAINING TO THE HANDLING OF CONFIDENTIAL INFORMATION:
TITLE 17, CALIFORNIA CODE OF REGULATIONS,
SECTIONS 91000 TO 91122**

Reference: Sections 39701, 41510, 41511, 41512 and 42705, Health and Safety Code; and Section 6253, Government Code.

§91011. Submissions of Confidential Data.

Any person submitting to the state board any records containing data claimed to be “trade secret” or otherwise exempt from disclosure under Government Code Section 6254 or 6254.7 or under other applicable provisions of law shall, at the time of submission, identify in writing the portions of the records containing such data as “confidential” and shall provide the name, address and telephone number of the individual to be contacted if the state board receives a request for disclosure of or seeks to disclose the data claimed to be confidential. Emission data shall not be identified as confidential. The state board shall not disclose data identified as confidential, except in accordance with the requirements of this subchapter or Section 39660(e) of the Health and Safety Code.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39660, 39701, 41500, 41511, 41512 and 42705, Health and Safety Code; Sections 6253, 6254 and 6254.7, Government Code; Natural Resources Defense Council v. EPA, 489 F.2d 390 (5th Cir. 1974) (6 ERC 1248); Northern California Police Practices Project v. Craig (1979) 90 Cal.App.3d 116; Uribe v. Howie (1971) 19 Cal.App.3d 194.

Article 3. Inspection of Public Records

§91020. Disclosure Policy.

§91021. Disclosure Procedure.

NOTE: Authority cited: Section 39601, Health and Safety Code. Reference: Sections 6253-6257, Government Code.

§91022. Disclosure of Confidential Data.

- (a) This section shall apply to all data in the custody of the state board
 - (1) designated “trade secret” prior to the adoption of this subchapter,
 - (2) considered by the state board or identified by the person who submitted the data as confidential pursuant to this subchapter, or

**EXCERPTS FROM THE CALIFORNIA CODE OF REGULATIONS
PERTAINING TO THE HANDLING OF CONFIDENTIAL INFORMATION:
TITLE 17, CALIFORNIA CODE OF REGULATIONS,
SECTIONS 91000 TO 91122**

- (3) received from a federal, state or local agency, including an air pollution control district, with a confidential designation, subject to the following exceptions:
- (A) Except for the time limits specifically provided in subsection (b), only subsections (c) and (d) of this section shall apply to information submitted pursuant to Health and Safety Code section 39660(e).
- (B) Appropriate portions of an application for approval, accreditation, or certification of a motor vehicle emission control device or system shall be kept confidential until such time as the approval, accreditation, or certification is granted, at which time the application (except for trade secret data) shall become a public record, except that estimates of sales volume of new model vehicles contained in an application shall be kept confidential for the model year, and then shall become public records. If an application is denied, it shall continue to be confidential but shall be subject to the provisions of this section.
- (C) If disclosure of data obtained after August 9, 1984 from a state or local agency subject to the provisions of the Public Records Act is sought, the state board shall request that the agency which provided the data determine whether it is confidential. The state board shall request that it be notified of the agency's determination within ten days. The state board shall not release the data if the agency determines that it is confidential and so notifies the state board; provided, however, that the data may be released with the consent of the person who submitted it to the agency from which it was obtained by the state board.
- (b) Upon receipt of a request from a member of the public that the state board disclose data claimed to be confidential or if the state board itself seeks to disclose such data, the state board shall inform the individual designated pursuant to Section 91011 by telephone and by mail that disclosure of the data is sought. The person claiming confidentiality shall file with the state board documentation in support of the claim of confidentiality. The documentation must be received within five (5) days from the date of the telephone contact or of receipt of the mailed notice, whichever first occurs. In the case of information submitted pursuant to Health and Safety Code section 39660(e), the documentation must be received within 30 days of the date notice was mailed pursuant to that section. The deadlines for filing the documentation may be extended by the state board upon a showing of good cause made within the deadline specified for receipt of the documentation.

**EXCERPTS FROM THE CALIFORNIA CODE OF REGULATIONS
PERTAINING TO THE HANDLING OF CONFIDENTIAL INFORMATION:
TITLE 17, CALIFORNIA CODE OF REGULATIONS,
SECTIONS 91000 TO 91122**

- (c) The documentation submitted in support of the claim of confidentiality shall include the following information:
 - (1) the statutory provision(s) under which the claim of confidentiality is asserted;
 - (2) a specific description of the data claimed to be entitled to confidential treatment;
 - (3) the period of time for which confidential treatment is requested;
 - (4) the extent to which the data has been disclosed to others and whether its confidentiality has been maintained or its release restricted;
 - (5) confidentiality determinations, if any, made by other public agencies as to all or part of the data and a copy of any such determinations, if available; and
 - (6) whether it is asserted that the data is used to fabricate, produce, or compound an article of trade or to provide a service and that the disclosure of the data would result in harmful effects on the person's competitive position, and, if so, the nature and extent of such anticipated harmful effects.
- (d) Documentation, as specified in subsection (c), in support of a claim of confidentiality may be submitted to the state board prior to the time disclosure is sought.
- (e) The state board shall, within ten (10) days of the date it sought to disclose the data or received the request for disclosure, or within 20 days of that date if the state board determines that there are unusual circumstances as defined in Government Code Section 6256.1, review the request, if any, and supporting documentation, if received within the time limits specified in subsection (b) above, including any extension granted, and determine whether the data is entitled to confidential treatment pursuant to Government Code Section 6254, 6255 or 6254.7 or other applicable provisions of law and shall either:
 - (1) decline to disclose the data and, if a request was received, provide to the person making the request and to the person claiming the data is confidential a justification for the determination pursuant to Government Code Section 6255; or
 - (2) provide written notice to the person claiming the data is confidential and,

**EXCERPTS FROM THE CALIFORNIA CODE OF REGULATIONS
PERTAINING TO THE HANDLING OF CONFIDENTIAL INFORMATION:
TITLE 17, CALIFORNIA CODE OF REGULATIONS,
SECTIONS 91000 TO 91122**

if a request was received, to the person requesting the data that it has determined that the data is subject to disclosure, that it proposes to disclose the data, and that the data shall be released 21 days after receipt of the notice by the person claiming confidentiality, unless the state board is restrained from so doing by a court of competent jurisdiction. The state board shall release the data in accordance with the terms of the notice unless so restrained.

- (f) Should judicial review be sought of a determination issued in accordance with subsection (e), either the person requesting data or the person claiming confidentiality, as appropriate, may be made a party to the litigation to justify the determination.

NOTE: Authority cited: Section 39601, Health and Safety Code.

Reference: Sections 6253, 6254, 6254.7, 6255, 6256, 6256.1, 6258 and 6259, Government Code.