

MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 212 -- PUBLIC AVAILABILITY OF EMISSION DATA

(Adopted 9-1-74) (Revised 12-13-84, and 10-16-02)

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PART 1 GENERAL

1.1 Purpose

The purpose of this Rule is to provide the means for the public to obtain emissions and monitoring data that has been generated by the Monterey Bay Unified Air Pollution Control District (District) or submitted to the District from stationary sources operating within the District.

1.2 Applicability

The provisions of this Rule shall apply to any person seeking to obtain emissions and/or monitoring data, or attempting to receive trade secret designation, from the District.

1.3 Exemptions

Reserved.

1.4 Effective Dates

This Rule, as most recently revised, is effective on October 16, 2002.

1.5 References

- 1.5.1 The requirements of this Rule arise from the provisions of Government Code Section 6254.7
- 1.5.2 Other related or referenced District rules or regulations include: Rule 101 (Definitions); Rule 200 (Permits Required); Rule 201 (Sources not Requiring Permits); and Rule 207 (Review of New or Modified Sources).

PART 2 DEFINITIONS

2.1 Public Records

- 2.1.1 In accordance with provisions of the Government Code Section 6254.7, all information, analyses, plans or specifications that disclose the nature, extent, quantity, or degree of air contaminants or other pollution which any article, machine, equipment, or other contrivance will produce which the District requires any applicant to provide before such applicant builds, erects, alters, replaces, operates, sells, rents, or uses such article, machine, equipment or other contrivance.
- 2.1.2 All air or other pollution monitoring data, including data compiled from stationary sources.
- 2.1.3 Notwithstanding any other provisions of the law, all air pollution emission data, including these emission data which constitute trade secrets as defined in Subsection 2.3 below. Data used to calculate emission data are not emissions data for purposes of this rule and data which constitute trade secrets and which are used to calculate emission data are not public records.
- 2.1.4 Written justification supplied by the owner or operator of a stationary source for claiming material as a trade secret.

2.2 Stationary Source

As defined in District Rule 207.

2.3 Trade Secret

May include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a

service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

- 2.3.1 The owner or operator shall state in writing to the District justification for claiming material as a trade secret.

PART 3 REQUIREMENTS

3.1 Public Records Request

Upon request, any specific public records in the possession of the District will be made available to the public within 15 days. If, for good cause, the information cannot be made available within the 15 days, the Air Pollution Control Officer shall notify the requesting person of the reason for the delay and when the information will be available.

- 3.1.1 Requests from the public for records shall be in writing, shall be specific and in sufficient detail to enable the District to readily identify the information requested.

PART 4 ADMINISTRATIVE REQUIREMENTS

4.1 Validity of Trade Secret Claims

The Air Pollution Control Officer shall rule on the validity of trade secret claims within 15 days after receipt of the request.

- 4.1.1 In cases of rejection, the Air Pollution Control Officer shall promptly notify the person making the justification, in writing, that the records in question shall, within 21 days be subject to public inspection unless a justification is received and accepted.

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