

RULE 1030 CONFIDENTIAL INFORMATION (Adopted June 18, 1992, Amended December 17, 1992)

1.0 Purpose

The purpose of this rule is to define what are considered to be Public Records, Trade Secrets, or Confidential Information and the procedures for claiming and designating confidentiality of information and allowing the release of such data to the California Air Resources Board and Federal Environmental Protection Agency.

2.0 Applicability

This rule shall apply to any source operation which emits or may emit air contaminants.

3.0 Public Records

3.1 All information, analyses, plans, or specifications that disclose the nature, extent, quantity, or degree of air contaminants or other pollution which any source operation will produce, which the District or any other state or local agency or district requires any applicant to provide before such applicant builds, erects, alters, replaces, operates, sells, rents or uses such source operation, are public records.

3.2 All air and other pollution monitoring data, including data compiled from stationary sources, are public records.

3.3 All air pollution emission data, including those emission data which constitute trade secrets, as defined in Section 4.0, are public records. Data used to calculate emission data are not emission data for the purpose this rule. Data which constitute trade secrets and which are used to calculate emission data are not public records.

4.0 Trade Secrets and Confidential Information

4.1 Trade secrets are not public records under this rule and shall be treated as confidential.

4.2 Trade secrets 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.

4.3 Official information furnished to the District by a state or federal agency which has determined that such information is confidential and not available to the public, shall be confidential information of this District.

5.0 Claims of Confidentiality

5.1 Any person furnishing any records may label and claim as "trade secret" any part of those records which are entitled to confidentiality. Written justification for the "trade secret" designation shall be furnished with the records so designated, and the designation shall be a public record. The justification shall be as detailed as possible without disclosing the trade secret. Additional information may be submitted to support the justification, and such information, upon request, shall be kept confidential in the same manner as the trade secret or the record sought to be protected. The APCO shall determine the validity of the claimant's declaration of confidentiality.

5.2 Upon the receipt of an application for "Confidential" classification of source data the APCO shall, within ten (10) working days, notify the applicant of his ruling. In cases of rejection, the APCO 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 which causes the APCO to reverse his ruling.

6.0 Release of Confidential Information to Other Agencies

Trade secret and confidential data may be released:

6.1 To the ARB, which protects trade secrets as provided in Section 62547 of the Government Code and Sections 91000 to 91022 of the California Administrative Code, Title 17; or

6.2 To the Federal Environmental Protection Agency, which protects trade secrets as provided in Section 114C of the Clean Air Act and in 40 CFR, Chapter 1, Part 2.