

**Air Pollution Control Board**

Greg Cox                      District 1  
Dianne Jacob                District 2  
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Ron Roberts                 District 4  
Bill Horn                     District 5

**Air Pollution Control District**

R. J. Sommerville          Director

**NOTICE OF WORKSHOP****TO DISCUSS AMENDMENTS TO  
RULE 177 - INSPECTION OF PUBLIC RECORDS OF REGULATION IX**

The San Diego County Air Pollution Control District (District) will hold a public meeting to consider comments concerning the proposed amendments to Rule 177 – Inspection of Public Records.

Comments concerning this proposal may be submitted in writing before, or made at, the workshop which is scheduled as follows:

**DATE:**                **Wednesday, May 23, 2001**  
**TIME:**                **8:30 a.m.**  
**PLACE:**              **Conference Room 139**  
                              **Air Pollution Control District**  
                              **9150 Chesapeake Drive**  
                              **San Diego, CA 92123**

Rule 177 – Inspection of Public Records specifies the procedural requirements for obtaining copies of records maintained by the District. These procedural requirements are based on the provisions of Government Code Sections 6250 through 6270. Certain provisions of the Government Code affecting Rule 177 were amended effective January 1, 2001. The proposed Rule 177 amendments reflect the changes made to state law.

Specifically, Rule 177 has been revised to allow the District 10 days to determine if requested records can be made available and an additional 14 days, if necessary, to complete this determination. If the requested records cannot be made available, the District must state the specific reasons and provide the requestor with the name and title of each person responsible for that determination.

The final significant change requires the District, after determining availability of the requested records, to advise the requestor as soon as possible when the records may be inspected. Other minor changes have also been made for clarification.

If you would like a copy of proposed District Rule 177, please visit the District's Web Site at [www.sdapcd.co.san-diego.ca.us](http://www.sdapcd.co.san-diego.ca.us), under Rules and Regulations, Workshops and Meetings, or contact Luann Serbesku at (858) 650-4544. If you have any questions concerning this proposal, please contact Jaynee Steinman at (858) 650-4510.

RICHARD J. SMITH  
Assistant Director

RJSm:JS:LY:jfo

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# SAN DIEGO AIR POLLUTION CONTROL DISTRICT

## PROPOSED AMENDED RULE 177

Proposed amendments to Rule 177 are to read as follows:

### RULE 177. INSPECTION OF PUBLIC RECORDS

(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 ~~need not be in any particular form, but it~~ must be submitted in writing and describe the records requested with sufficient specificity to enable the District to identify the information sought. ~~The District may require that a request to inspect be in writing.~~

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

(d) The District shall ~~make available~~ determine if the records requested ~~are can be made available, with the exception of those records specifically exempted from disclosure by state law and those records labeled as "trade secret" which are not emission data,~~ within ten (10) ~~working days of the date of~~ after receipt of the request therefor. If, for good cause, ~~the information~~ this determination cannot be made ~~available~~ within ten (10) ~~working days,~~ the District will notify the requesting person of the reasons for the delay and when the information will be available determination is expected to be completed. (This extension is limited to an additional 14 days). ~~Those r-Records~~ Records labeled as "trade secret" shall be governed by the procedure set forth in ~~Subdivision Section(f)~~ Section(f) of this rule.

(4) ~~The specific reason why~~ If the records cannot be made available, ~~if such is the case 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; status not determined; 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) ~~Within five (5) working days of receipt of a request to inspect public records~~ 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 ~~when appropriate:~~

(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, ~~if any.~~

(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 Subdivision Section (g) of this rule.

~~(4) (Moved to section (d).) The specific reason why the records cannot be made available, if such is the case. 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; status not determined; 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.~~

(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, ~~the adoption of this regulation~~, (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 Subdivision Section (g) of this rule. All other portions of such records shall be made available pursuant to Subdivisions 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 6528~~ 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