



SANTA BARBARA COUNTY  
AIR POLLUTION CONTROL DISTRICT  
POLICIES AND PROCEDURES

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| Topic:         | <u>Public Record Act Requests</u> |        |                   |
| Distribution:  | <u>All Staff</u>                  |        |                   |

**A. INTRODUCTION**

As a public agency, the District receives requests to access the District’s public records. The District processes all public records requests in a manner consistent with [Sections 6250-6270.5](#) of the California Government Code (aka the California Public Records Act – “PRA”).

It is the District’s policy to provide the public access to our records consistent with the requirements of the PRA and other applicable law. Access includes viewing the records at the District’s Santa Barbara office, providing existing electronic files, or, subject to the payment of applicable fees, providing paper copies of records or electronic copies from scanned paper files. The procedures outlined in these Policies & Procedures provide guidance in implementing the District’s obligations to provide access to public records that are not exempt from disclosure in an efficient and timely manner.

As used in these Policies and Procedures, the phrase “*public records*” is as defined in [Section 6252\(e\)](#) of the California Government Code (“CGC”)<sup>1</sup> and includes any writing containing information relating to the conduct of the public’s business prepared, owned, used or retained by the District regardless of physical form or characteristics. A record is something that already exists. The PRA does not require the District to create records that do not exist, nor is it the appropriate forum to ask the District questions other than requests for public records.

**B. HOW TO REQUEST TO VIEW OR OBTAIN COPIES OF PUBLIC RECORDS**

All PRA requests are processed by the Air Quality Permit Technician (Permit Technician) in the Engineering Division. Our PRA webpage, [www.ourair.org/request-public-records/](http://www.ourair.org/request-public-records/), provides instructions to the public for making requests. Unless sent in by regular mail or an express service, all requests should be sent to our [pra@sbcapcd.org](mailto:pra@sbcapcd.org) email address. Specific guidance regarding District fees for copying/scanning is detailed in Section G (*Charges for Public Record Act Requests*). The request need not be in any particular form, but should describe the requested records with sufficient specificity to provide District staff the ability to identify and locate the records sought. Such specificity should include, if possible, permit numbers, names, addresses, and other specific technical or administrative data. Failure to provide specifics regarding the public records sought may delay or impede the District’s ability to locate and produce the records. The request must also contain the contact name, email address, USPS mailing address and phone number of the requestor.

<sup>1</sup> Unless otherwise noted, all citations within these Policies and Procedures refer to the California Government Code.

Policies and Procedures Memoranda are intended to provide agency staff, applicants and the public guidance relative to standardized District procedures. These policies and procedures shall not be interpreted in conflict with District Rules and Regulations or administrative policies, and may be modified or updated periodically without advance notice.

### C. GENERAL PRA PROCESSING PROCEDURES

1. Primary Responsibility: The Permit Technician is responsible for coordinating the District's response to PRA requests. In their absence, other designated staff will provide back up.
2. Records Determination: In normal circumstances, the District has 10 days from the receipt of the request to determine if the requested records exist, and if they do, if these records are exempt from public disclosure. During this 10-day period, the Permit Technician will coordinate with other District staff to ascertain the availability of the records and to determine whether the records are exempt from disclosure. On or prior to the 10<sup>th</sup> day, the Permit Technician will either: (a) provide the requested records to the person making the request (after payment of any applicable reproduction fees), (b) inform the person making the request that no identifiable records were found, or (c) inform the person making the request that the records are exempt from disclosure (in whole or in part) and provide those records that are not exempt.
3. Extension of 10-Day Timeline: In "unusual circumstances," the 10-day time limit may be extended by written notice by the Control Officer or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. (Reference: [Section 6253\(c\)](#).) No notice shall specify a date that would result in an extension for more than 14 days. As used in the PRA, "unusual circumstances" is defined as the following, but only to the extent reasonably necessary to the proper processing of the particular request:
  - a. The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
  - b. The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
  - c. The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.
4. Fulfilling the Request: Upon completion of the records determination step, PRA requests should be fulfilled within 10 days of submittal, when feasible. For those instances where the identified records cannot be reasonably gathered within the initial 10 days, the Permit Technician will inform the requestor when the records are expected to be available.
5. Denial of Request: Any notification of denial of any request for records shall set forth the names and titles or positions of each person responsible for the denial. (Reference: Section 6253(d).)

### D. PUBLIC RECORDS EXEMPT FROM DISCLOSURE

1. General: In balancing the public's right to access public records with the recognized right to privacy and the need of public agencies to perform their duties, the Legislature has established certain categories of records that are exempt from public disclosure. Records subject to exemption may be disclosed in the District's sole discretion where a specific waiver will serve the public interest. District staff must coordinate with the Control Officer and District Counsel on any questions regarding a waiver of an exemption.

Any specific disclosure of a record that would otherwise be exempt from disclosure shall not constitute a waiver as to any other District records. Any inadvertent or unauthorized disclosure of an exempt record by the District shall not constitute a waiver of the exemption.

2. Examples of Express Exemptions: The PRA includes a list of particular records that are expressly exempt from public disclosure. (Reference: [Section 6254.](#)) Examples of expressly exempt records include:
  - a. Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the District in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure. **Note:** District emails are not typically kept in the ordinary course of business. Emails that are kept in the ordinary course of business (normally indicated by printing and retention of the email), however, are public records and are subject to public disclosure unless otherwise exempt under the PRA.
  - b. Records pertaining to pending litigation to which the District is a party, or to claims made pursuant to the Government Claims Act (commencing with Section 810) until such litigation or claim has been finally adjudicated or otherwise settled.
  - c. Personnel, medical, or similar files; the disclosure of which would constitute an unwarranted invasion of personal privacy.
  - d. Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.
  - e. Records pertaining to active enforcement actions, including records that are part of the Districts Mutual Settlement program, until such time the case is settled and closed, unless otherwise privileged.
  - f. Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination.
  - g. Records of which the disclosure is exempt or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.
3. Exemption Where Non-Disclosure is in Public Interest: If a District record is not exempt from disclosure under the express provisions of the PRA, the District may withhold the record if the public interest served by not making the record public clearly outweighs the public interest served by disclosure. Except as required by law, including Section 6254.7 (discussed below), the District does not disclose public records that constitute 'trade secrets' as defined in Evidence Code Section 1061.
4. Questions About Disclosure: If any question exists as to whether a record should be disclosed, the Permit Technician and the Engineering Manager should consult District Counsel for further guidance.
5. Air Pollution Information Generally Not Exempt: All air pollution emission data, including emission data which constitute trade secrets, as defined in Section 6254.7(d) are public records that are subject to disclosure. Data used to calculate emission data are not emission data for the purposes of the PRA and data that constitute trade secrets and that are used to calculate emission data are not public records.

Data used to calculate the costs of obtaining emissions offsets are not public records. However, at the time District issues an Authority to Construct permit to an applicant who is required to obtain offsets pursuant to District rules and regulations, data obtained from the applicant consisting of: a) the year the offset transaction occurred; b) the amount of offsets purchased, by pollutant; and, c) the cost per ton and total cost, by pollutant, of the offsets purchased, are public records. If an

application is denied, the data shall not be public records. (Reference Section 6254.7(f).)

All air monitoring data are public records.

The PRA (Section 6254.11) does not require the disclosure of volatile organic compound information obtained by District under H&SC 42303.2, which allows the Control Officer to seek customer lists, chemical types and quantities of VOCs provided by in-state and out-of-state suppliers. If District staff receives a PRA request that relates to VOCs, the Permit Technician shall advise the Division Manager and District Counsel, who will assist in responding to the request. *Caution: Pursuant to Health and Safety Code section 42303.2(c), the knowing and willful disclosure of such information in violation of Health and Safety Code section 42303.2(c) is a punishable offense.*

## **E. COMMON WAYS TO VIEW OR OBTAIN PUBLIC RECORDS**

1. Viewing Public Records. The public may request to view public records in person. The following procedures apply to this type of request:
  - a. Public records are generally open to inspection Mon-Fri from 9:00 am-12:00 pm and 1:00 pm-4:00 pm, except for District holidays. Any person who wishes to view public records must first telephone or email the Permit Technician (805-961-8867, [pra@sbcapcd.org](mailto:pra@sbcapcd.org)) in advance and make an appointment to view the records. The District will attempt to ensure that the records will be available for viewing within a reasonable period.
  - b. The Permit Technician must then determine if any of the records are exempt from disclosure (see Section D – *Public Records Exempt from Disclosure*).
  - c. The Permit Technician will coordinate an appointment to view the public records with the requestor. The Permit Technician greets the requestor at the front desk and provides a visitor's tag that indicates the individual's name and company/agency affiliation. The Permit Technician provides the requested public records. File viewing, in either paper or electronic format, is done in a conference room that the Permit Technician reserved.
  - d. The Permit Technician provides basic instructions and etiquette for handling of the files to the requestor. Example instructions for viewing paper files include that files may not be disassembled in any way, be marked on or written upon, that pages may not be folded/dog-eared, and that no files/records may leave the conference room. The requestor will be informed that they must remain in the designated area. Once the requestor is finished, they must contact the Permit Technician for final instructions and for escort out of the building. The Permit Technician will also ensure that the files are in order. Other than trips to the restroom, visitors may not walk the floor unescorted. Requestors must abide by District instructions as a condition of viewing records in person.
  - e. Requests to meet with District staff must be made in advance.
  - f. The requestor must mark each page (or note the page number for electronic files) they want copied with a colored post-it note/flag. The Permit Technician will confirm with the requestor the pages marked for copying. Charges for copies are assessed per Section G - *Charges for Public Record Act Requests*.
2. Requests for Copies of Records: The public may request a copy of an existing record. This could be a paper document or an existing electronic file (e.g., PDF file). The public may also ask for a scan of a paper document into an electronic file. The following procedures apply to this type of request:

- a. The requestor makes a PRA request, preferably via regular mail/express or to our [pra@sbcapcd.org](mailto:pra@sbcapcd.org) email address. Requestors are encouraged to utilize the District's formal process established for submitting PRA requests. This will assist the District in making an effective and efficient search for the requested records. More information is available at the District's PRA webpage at [www.ourair.org/request-public-records/](http://www.ourair.org/request-public-records/).
  - b. The Permit Technician reviews the request to ensure it contains sufficient specificity to provide District staff the ability to identify and locate the records sought. The requestor may need to provide more details to help District staff complete the search.
  - c. The Permit Technician will contact the requestor if there are no records meeting the search criteria. This notification may be sent via email using the address provided by the requestor. Attachment A contains example language that may be used in providing this notification.
  - d. If records are found, the Permit Technician must then determine if any of the records are exempt from disclosure (see Section D – *Public Records Exempt From Disclosure*).
  - e. The Permit Technician then prepares the records for transmittal. Attachment A contains example language that may be used for preparing a transmittal memo. Depending on file size, electronic files may be emailed (either as an attachment or as a downloadable web link) or sent by US Mail on a CD. For paper copies and scanning of paper documents into an electronic file, an invoice is prepared and sent to the person making the request when the number of single-sided pages exceeds 100. Once the invoice is paid, the Permit Technician will then transmit the records. Paper copies are mailed via US Mail.
  - f. In lieu of step (e) above, pursuant to CGC Section [6253\(f\)](#), District staff may direct the requestor to a location on the District website where the public record is posted. If the requestor has difficulty accessing the requested records from the District website, then staff shall provide the records as noted above in step (e). Examples of records found on the District website include rules, budgets, permits, and Ozone Plans.
3. *Requests Requiring Data Compilation, Extraction and/or Programming*: Requestors may request information constituting a public record that is contained in District databases. Examples include requests for a list of all boilers and where they are located or a list of all Part 70 sources and the facility contact name. The same procedures for requesting copies of records above also apply to this type of request. For database record requests, the District utilizes existing database reports to extract the data into an electronic file (e.g., PDF, Excel) or paper copy. District staff are not expected to modify or rearrange the database report output. There are existing database reports that typically contain the information requested. Requests that require the creation of new reports, data compilation, and/or programming are handled on a case-by-case basis by the Engineering Manager. Pursuant to CGC Section [6253.9\(b\)](#), the requestor shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record.

## F. ELECTRONIC COMMUNICATIONS ON PERSONAL ACCOUNTS

1. *Use of Electronic Devices*: All District-related business using electronic communications shall be on District accounts.
  - a. All electronic communications to or from District employees regarding District business should be conducted on District accounts. Electronic media communications are primarily email, but may also include work related communications using other electronic methods, including, but not limited to: text and instant messaging, social media, forums, and chat rooms.

- b. Whenever any public record is sent or received on a personal account, the employee shall:
    - i. Forward or copy the communication to the employee's District account, where it shall be kept or deleted pursuant to the District's Records Retention Policy.
    - ii. Request the non-District party to the communication to use the employee's District account for all future District related communications.
  - c. Notwithstanding the above, text messages that are work related that are not kept in the ordinary course of business may be deleted from a personal account without copying it to a District account.
2. PRA Requests for Electronic Communications in District Employee Personal Accounts: PRA requests seeking electronic communications stored solely on personal accounts shall be handled as follows:
- a. Upon receipt, District Management will immediately communicate the scope of the PRA request to any employee covered by the request. The request may also include non-electronic records. In either case, the employee and the District must follow these Policies & Procedures for responding to requests for public records.
  - b. Upon receipt of the notice from Management, the employee shall:
    - i. Record Review. Conduct a reasonable search of all personal electronic accounts and forward relevant documents that are solely stored on a personal account to District Management for possible production pursuant to the PRA request.
    - ii. Identify personal information for redaction. Prior to production, the employee should identify any personal information contained in the record that may be redacted, as needed, to protect privacy.
    - iii. Written Statement. Prepare a written statement that lists the date(s), time(s) and account(s) that were searched and, as appropriate, state the following:
      - 1. No relevant records exist in a personal account;
      - 2. All relevant records have been previously copied to a District account; or
      - 3. For any record responsive to the request not previously copied to a District account, timely provide such records to District Management. District Management will handle the records as appropriate (i.e., produce the record or assert applicable privileges or exemptions) following these Policies & Procedures and advice of District Counsel (as needed).
  - c. Public Record Act Requests - Board Members: Any request for electronic records in personal accounts of District Board Members shall be immediately sent to District Counsel, who will then communicate with the Board Member about producing responsive records as outlined in these Policies & Procedures.

## **G. CHARGES FOR PUBLIC RECORDS ACT REQUESTS**

- 1. General: This section addresses when, and how much, the District charges for copying and/or scanning services in response to a PRA request. CGC Sections 6253(b) and 6253.9(a)(2) allow the District to recoup the direct cost of duplication. Typical examples that involve the direct cost of duplication include: (a) making paper copies for mailing to the requestor; and (b) scanning of paper files to create an electronic file (e.g., PDF) for emailing or mailing a CD to the requestor. The cost

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of duplication does not include the costs associated with the search and retrieval of the files. For requests to create an electronic file from existing paper records, the same charge rate used for making paper copies is applied. The basis for this is that the same effort is required to scan a file as is required to create a paper copy. Requests for existing electronic files are not assessed a fee, as there is no additional effort required to create the file.

2. *Fees for Copying/Scanning:* The District charges a fee of 20 cents for each page copied or scanned. However, no fee will be charged if the total cost would be \$20 or less (i.e., 100 pages or less). If the total number of pages is greater than 100, then the fee is applied to the total count of pages copied/scanned.
3. *Invoicing Process:* Once the total charge is established, an invoice is generated by the Fiscal Department and transmitted to the requestor. Payment for copying or scanning must be made in advance of when the copies of the documents are provided to the requestor. Payment may be made via check or credit card. Cash payments are discouraged.
4. *Published Documents:* Published District documents (e.g., Rule Book, Clean Air Plan) may have a standard price already established. In these cases, the standard price will be charged. Check to see if these documents already exist online in PDF format.
5. *Records Requiring Data Compilation, Extraction and/or Programming:* CGC Section 6253.9(b) addresses requests that require the creation of new reports, data compilation, and/or programming. The costs for these requests may be invoiced to the requestor. Such requests will be handled on a case-by-case basis by the Engineering Manager.
6. *Records Posted on District Webpage:* CGC Section 6253(f) addresses public records that are posted to our webpage. Examples include rules, budgets, permits, and Ozone Plans. In response to a PRA request, District staff may initially direct the requestor to the location on the District website where the public record is posted. If the requestor has difficulty accessing the requested records from the webpage, then staff shall provide the records as noted above (i.e., paper copies, scanned files to create a PDF file, or emailing existing electronic files)

## **H. OTHER CONSIDERATIONS**

1. *Subpoenas Delivered to the District:* If the District is served with a subpoena to produce public records held by the District, the Permit Technician shall contact the Engineering Manager. The Engineering Manager will assess the scope of the subpoena and will take appropriate action to address the records request. District Counsel shall be consulted if unique or unusual circumstances exist.
2. *Confidential Complainants & Informants:* Under CGC Section 6255, unless required by law, the District does not disclose the identities of confidential complainants or informants. Such protection does not apply in situations where the complainant or informant specifically requests that their identity not be kept confidential. In the absence of such a specific request, the District treats the identity of all complainants or informants as confidential.
3. *Confidential Materials:* Some requests for public records involve materials that have been submitted under the District's confidentiality provisions. Refer to Policy & Procedure 6100.20 (*Handling of Confidential Information*) for guidance regarding handling and disclosure of materials confidentially held by the District. In the case of a request for confidential information, the appropriate Division Manager and District Counsel should be contacted for review of the request.

### Attachment – Sample PRA Response Letter

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# ATTACHMENT A

## DISTRICT LETTERHEAD

<date>

<name>

<address>

<city, state, zip>

Re: Request for Public Records Pursuant to the Public Records Act

Dear <salutation> <name>,

On <date>, the Santa Barbara County Air Pollution Control District received your request for public records (attached). You have requested copies of records pursuant to the Public Record Act, Government Code sections 6250-6270. The District's policy is to cooperatively comply with all Public Record Act requests.

### OPTION 1A:

The records you seek {are attached to this letter} {or} {may be downloaded from this link: <https://files.sbcapcd.org/example.zip>. This link will remain active for 30 days} {or} {are enclosed with this letter on a CD}. This fulfills your request.

### OPTION 1B:

We found most of the records you seek. These records {are attached to this letter} {or} {may be downloaded from this link: <https://files.sbcapcd.org/example.zip>. This link will remain active for 30 days} {or} {are enclosed with this letter on a CD}. The records we could not find are: {example text here}. This fulfills your request.

### OPTION 2A:

We have found the records you seek. We estimate the total number of single-side pages to be copied or scanned to be {xx}. We assess a charge of 20 cents per page when the total number of single-side pages exceeds 100. Before we perform copying or scanning, please pay the attached invoice. Once payment is received, we will mail copies and/or email the scanned electronic file to the contact information you provided.

### OPTION 2B:

We found most of the records you seek. We estimate the total number of single-side pages to be copied or scanned to be {xx}. We assess a charge of 20 cents per page when the total number of single-side pages exceeds 100. Before we perform copying or scanning, please pay the attached invoice. Once payment is received, we will mail copies and/or email the scanned electronic file to the contact information you provided. The records we could not find are: {example text here}.



OPTION 3:

After an exhaustive search, we did not find any records that matched your request. This fulfills your request.

OPTION 4:

The records you seek are not disclosable pursuant to the Public Records Act (sec. 6254 et seq.). The Act limits the availability of certain records retained by public agencies. After consideration of your request, it is the determination of the District that the records you have requested access to or copies of constitute records that are not disclosable under the Public Records Act. Records have been withheld or partially redacted because {**enter reason here**. *Example: they are exempt from disclosure under the attorney-client privilege*} The person making this determination is <name of District employee>.

OPTION 5:

Your Public Records Act request does not contain sufficient detail to allow us to determine which public records you are seeking. To allow us to assist you in your search, please provide additional detail regarding:

<describe what additional information is needed for District to process the request.>

To the greatest possible extent, please include permit numbers, company and/or individual names, street addresses, names, descriptions and dates of correspondence, reports or submittals, and similar information so that we may timely respond to your request

Please contact <Air Quality Permit Technician> at (805) 961-xxxx or [pra@sbcapcd.org](mailto:pra@sbcapcd.org) if you have any questions.

Sincerely,

<name>, Manager  
Engineering Division

CC: PRA Project File  
Chron File