

California Environmental Protection Agency
 **Air Resources Board**

ECONOMIC ANALYSIS SURVEY

Please feel free to contact the following staff for questions concerning the survey

Virginia Humphreys
Phone: (916) 322-8739
Email: vhumphre@arb.ca.gov

*Please return the completed survey and any additional information by **January 21, 2010** and email or mail to:*

Attention: Virginia Humphreys (MSCD)
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

Confidential

Company Information

Company Name:

Contact Person:

Company Address:

Phone Number:

Email Address:

ARB Confidentiality

The California Code of Regulation (CCR) Article 2, sections 91010 requires the state board to give notice to any person from whom it request information that the information proved 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 and in federal regulations.

If your responses to any part of this survey contain confidential information, please check the box marked confidential located above on the right side of this page and refer to Attachment A for more detailed information. In addition, please complete the confidentiality form provided in attachment A.

Economic Analysis Survey Form

The purpose of this form is to gather fleet data and financial information for staff to evaluate the impact of the economy on individual business that need to comply with the Truck and Bus Regulation. Any information that is marked confidential will remain confidential. Please complete and return this form to the Air Resources Board by January 21, 2010.

Company Name: _____

Contact Person: _____

Physical Address: _____

Email Address: _____

1. Please provide audited financial statements, balance sheets and/or profit and loss statements for the past three to five years (Attach information to this form and email to Virginia Humphreys at vhumphre@arb.ca.gov or mail to PO box 2815, Sacramento, CA 95812 Attn: Virginia Humphreys).

2. Please tell us about your trucks and buses operated in the calendar years of 2006 to 2009. Specifically, what is the model year(s) and annual miles traveled for each vehicle during each calendar year? If the truck was idle for the entire year, please enter zero for mileage.

		Annual Miles Traveled			
Model Year	Year Sold/Retired	2006	2007	2008	2009

(Attach a separate sheet for additional vehicles)

3. Please tell us about any off-road diesel vehicles such as loaders and backhoes, operated in the calendar years of 2006 to 2009. Specifically, what is the model year(s), horsepower of the engine(s), and total hours of operation for each vehicle during each calendar year?

Model Year	Horsepower	Annual Hours of Operation			
		2006	2007	2008	2009

(Attach a separate sheet for additional vehicles)

4. Have you or your company applied for and received any incentive funding for vehicle purchases, repowers, or retrofits in the last three to five years? If yes, how much money have you received?
5. Do any of your trucks have a PM exhaust retrofit? If so, how many?
6. Please tell us how you classify your business. For example, are you a logging, construction, or moving company?
7. If your organization is a national organization, is there a California branch or affiliate?
8. How many California fleet owners does your organization represent?
9. Can you provide us with individual fleets willing to provide data?
10. Do you currently subscribe to our listserv? If not, would you like to be enrolled? (Note: listserv subscribers are notified immediately by email regarding updates on the regulation, outreach material, and workshops.)

Attachment A
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.)

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 checking (x) in the upper right-hand corner confidentiality box on the first page of the survey.

Printed Name: _____	Title: _____
Signature: _____	Date: _____
Mailing Address: _____	
City/State: _____	Zip/Country: _____
Telephone Number: E-mail Address: _____	

Page A-1
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.
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

(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.

(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, 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.

