

Important Information About Terminal and Port Plan submittals:

Terminal and Port Plans (Plans) will be posted to CARB's website for public review. CARB has received inquiries from stakeholders asking whether regulated entities would be allowed to submit public and not-public versions components of Plans to address potential confidential business information. In response, CARB is providing the following direction: Because the At Berth Regulation does not specify a public process for the Plans, the Plans can include both public and confidential information. CARB is requesting that if the Plan includes confidential information, the Plan is submitted in two parts, where Part 1 contains only public information. Any confidential information is submitted in Part 2, under the cover of and per the directions contained in this Confidentiality Form.

Confidentiality Disclaimer for Port or Terminal Plan (Part 2):

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 California Air Resources Board (CARB) may be released (1) to the public upon request, except trade secrets, which are not emissions data, or other information that 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 each piece of confidential information as such at the time of submission to CARB and must provide the name, address, and telephone number of the individual to be consulted.** If CARB receives a request for disclosure or seeks to disclose the data claimed to be confidential, CARB 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 CARB determines, in accordance with the above referenced regulations,

that the data does not qualify for a legal exemption from disclosure. The regulations establish substantial safeguards before any such disclosure.

If you wish to designate any information contained in your port or terminal plan as CONFIDENTIAL INFORMATION, please provide the information requested below (page 3) and return it with your completed plan (Part 2). If you have questions or concerns regarding CARB's handling of confidential information and/or the Public Records Act, please contact Cesar Cuevas at cesar.cuevas@arb.ca.gov.

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Enter Company Name:

This declares that the marked information submitted to CARB via a port or terminal plan and identified as confidential constitutes "trade secret" information, and requests that it be protected as such from public disclosure.

Printed Name: _____ Title: _____

Signature: _____ Date: _____

Mailing Address:

City/State: _____ Zip: _____

Telephone Number: _____ E-mail Address: _____