

**AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO**

**DRAFT PROPOSED AMENDMENTS TO
RULE 1210 – TOXIC AIR CONTAMINANT PUBLIC HEALTH RISKS-
PUBLIC NOTIFICATION AND RISK REDUCTION
RULE 19.3 – EMISSION INFORMATION**

WORKSHOP REPORT

The San Diego County Air Pollution Control District (District) held a public workshop on August 15, 2019, to discuss and receive input on the draft proposed amendments to Rule 1210 – Toxic Air Contaminant Public Health Risks-Public Notification and Risk Reduction, and Rule 19.3 – Emission Information. A meeting notice was mailed to each permit holder, applicant, registration holder, chamber of commerce in the region, interested parties through the County of San Diego’s electronic mail service, the U.S. Environmental Protection Agency (EPA), the California Air Resources Board (ARB), other interested parties, and posted on the District’s website.

The workshop was attended by 30 people. The comments and District responses are provided below:

1. WORKSHOP COMMENT

How are cancer potency values for different chemicals determined?

DISTRICT RESPONSE

The state Office of Environmental Health Hazard Assessment (OEHHA) relies on toxicity data in the scientific literature and uses this data to determine the cancer potency values. OEHHA does not conduct the toxicity studies themselves.

2. WORKSHOP COMMENT

What is the process in other states, and how do they compare with California’s process? Are there chemicals that different states have with different cancer potency values? Or processes that result in higher risk in California than in other states (like the recently revised health risk assessment (HRA) procedures)?

DISTRICT RESPONSE

Very few states have programs like California’s Air Toxics “Hot Spots” Program. Most follow federal regulations. HRA’s are conducted similarly throughout the nation, and some health values are taken from the federal IRIS database. There are many conservative and health protective assumptions in performing HRAs. OEHAA doesn’t expect more than a two-fold change in risk numbers from the procedures revised in 2015, and that is only for sources that have children receptors (if a source doesn’t have many children as receptors, the numbers aren’t expected to change much).

3. WORKSHOP COMMENT

As the District looks are more facilities, do you expect the number of sources that might be above 10 per one million will increase, decrease, or stay the same?

DISTRICT RESPONSE

Until the analysis is done, it is unknown how that number may change.

4. WORKSHOP COMMENT

Why do different air districts have different risk reduction thresholds? Is there some flexibility in the program to choose the risk reduction threshold?

DISTRICT RESPONSE

The “Hot Spots” regulation requires sources with a significant risk to reduce that risk but did not define what was significant. As districts determined what they would consider significant, political considerations in how it might affect the economy may have played a role in what the districts choose. When OEHHA first developed HRA guidance for this program, they gave a range for significant from 10 to 100 per one million for cancer risk, and districts tended to pick a number in that range.

5. WORKSHOP COMMENT

From an older table from CARB (California Air Resources Board), 13 districts have no threshold, 11 use 10 per one million, 1 uses 20 per one million, 2 use 25 per one million, and some have 100 per one million. It seems that the districts with no threshold or with 10 per one million are all smaller, rural districts that may not have had high risk sources.

DISTRICT RESPONSE

That is what happened with the Sacramento Metropolitan air district and may have happened with the other districts.

6. WORKSHOP COMMENT

Has OEHHA re-analyzed the significant cancer risk range they originally proposed?

DISTRICT RESPONSE

OEHAA has not revisited that topic, as no one has requested them to do so.

7. WORKSHOP COMMENT

Is the one Rule 1210 presented with a risk reduction threshold of 10 in one million a placeholder for the options the Board asked you to provide, and may change upon further evaluation?

DISTRICT RESPONSE

Yes, that is correct. The District will reach out to the potentially affected sources to see if the analysis of risk was correct, and to discuss what they might do to meet the different thresholds presented at the workshop, and what those costs might be. This information will be used to inform the options to be presented at the second workshop and to the Board. Additionally, the District will need to make a recommendation to the Board, and this information will help determine the recommendation.

8. WORKSHOP COMMENT

Will this additional information be available before the comment period is over?

DISTRICT RESPONSE

Most likely not. Getting cost information can be time consuming – vendors may not be willing to provide estimates if they do not think they will make a sale (this issue is faced by all air districts in many permitting actions). The additional information should be available for the second workshop.

9. WORKSHOP COMMENT

Will this rule only affect existing sources, as new sources are subject to Rule 1200 and will have T-BACT (Toxics Best Available Control Technology)? And if the threshold is lowered, and existing, older facilities will need to install additional controls – many of them do not have the space that additional controls would need.

DISTRICT RESPONSE

That is correct. There is a corollary rule, Rule 1200, that applies to new and modified sources under the permitting program. Rule 1200 is based on what the source is allowed to emit, while Rule 1210 is based on what the source actually emits. Rule 1200 requires equipment above 1 in one million to be equipped with T-BACT and limits the total allowed emissions from a project to not exceed 10 in one million. The District understands the space needs for controls, and that is part of the analysis about technical feasibility and cost – space constraints affects the feasibility and leads to increased costs.

10. WORKSHOP COMMENT

Have you reached out to the 10 sources that might be affected, and how do I know if my facility is one of them?

DISTRICT RESPONSE

Originally, e-mails were sent to approximately 18 sources. If you did not receive an e-mail, you are not one of the potentially affected sources. The 10 remaining sources have not yet been notified.

11. WORKSHOP COMMENT

From attending the Board meeting where they directed the District to re-evaluate the cancer risk reduction threshold, it appears many people equated lowering the risk reduction threshold from 100 to 10 would save 90 lives, so how can you not do it? We need to find a way to educate the Supervisors and public about risk vs. actual cancer cases.

DISTRICT RESPONSE

The District agrees with this comment and welcomes a discussion about the best way to communicate what risk means.

12. WORKSHOP COMMENT

For the proposal to add toxic sources to the emission inventory in Rule 19.3, why are there no thresholds for reporting? The new CARB CTR regulation includes thresholds for reporting.

DISTRICT RESPONSE

Proposed amended Rule 19.3 is based on the facility's prioritization score under the Air Toxics "Hot Spots" Program, so it is already known which facilities are in Category A (sources which have to do a HRA) and which are in Category B (sources which might be asked to do a HRA). The District would be notifying the affected facilities covered by this, so facilities will not need to determine this on their own.

13. WORKSHOP COMMENT

Will the District need to add staff to review the additional HRAs and emission inventories?

DISTRICT RESPONSE

The District is currently in the budget process and might need to add one additional staff to help with this work. As we charge sources for reviewing HRAs, the position would at least be partially supported by those fees, but this position has not yet been approved.

14. WORKSHOP COMMENT

When will the District go back before the Governing Board?

DISTRICT RESPONSE

The Board has asked us to come back by April 2020.

15. WORKSHOP COMMENT

The schedule for rule development is too aggressive and additional time is needed to explore options, technical feasibility, and cost effectiveness components. The District should go to the Board before April 2020, with a proposal and plan (not a rule), and ask for an extension to finalize the rule amendments.

DISTRICT RESPONSE

While the schedule is shorter than you typically see for rule amendments, the District believes there is sufficient time to accomplish the review. However, the progress will be monitored, and if an extension is warranted, the District will consult with stakeholders about the best way to approach the Board to request such an extension.

16. WORKSHOP COMMENT

It is premature to suggest a risk reduction threshold of 10 in one million until the district can analyze the data and it can be demonstrated that methods to achieve this are available, proven and cost effective.

DISTRICT RESPONSE

The 10 in one million threshold in the rule language released for the workshop was simply a placeholder for the options that were presented. The District will present options to the Board for their consideration about what the appropriate health protective threshold should be. The District is considering options for sources who have done all they can reasonably do but cannot meet a threshold due to technical or economic issues, and plans to discuss potential options at the second workshop.

17. WORKSHOP COMMENT

As part of the discussions at workshops and with decision makers, it would be helpful if the District acknowledges the reductions that existing regulations have done and that stationary sources only contribute less than 3% of the toxic emissions in the county.

DISTRICT RESPONSE

The District agrees with this comment and plans to include this information when discussing the proposed amendments with stakeholders and decision makers.

18. WORKSHOP COMMENT

The District needs to provide economic information and justification for the proposed threshold(s); provide options, and properly analyze impacts to the affected facilities. Industry is available and ready to provide technical and cost data to help the District develop an achievable and effective plan.

DISTRICT RESPONSE

While air toxics rules do not look at cost effectiveness like criteria pollutant rules, the District agrees that cost information and analysis will be important to the Board and appreciates industry's willingness to help collect and provide that information.

19. WORKSHOP COMMENT

The rule should consider a voluntary measure option similar to the South Coast AQMD Rule 1402 that allows opting into risk reduction before it is required.

DISTRICT RESPONSE

The District has researched the South Coast AQMD's voluntary risk reduction option and determined this is for sources who trigger public notification but not risk reduction, as an incentive to reduce risk when it is not required, by lessening the notification requirements so long as the source can reduce the risk below the notification threshold within two and one half years. The District agrees that this could incentivize risk reductions that might otherwise not happen and plans to include it in the options to be discussed at the second workshop.

20. WORKSHOP COMMENT

The District should consider an incremental implementation of the risk reduction threshold, to give the District and industry some flexibility should OEHHA again change the guidance on performing HRAs.

DISTRICT RESPONSE

Existing Rule 1210 allows up to 10 years, if needed, for a source to reduce their risk below the risk reduction threshold. Most facilities should be able to meet this timeline. However, for those that may not be able to meet this timeline, the District plans to include an allowance for facilities that have done what they can do to reduce their risk additional time for the technology to become available to reach the risk reduction threshold.

21. WORKSHOP COMMENT

The District should consider risk based on average emissions over several years because operations and emissions vary from year to year. As this is a lifetime cancer risk, using an average would make sense.

DISTRICT RESPONSE

The District will consider this approach and will discuss this with OEHHA.

22. WORKSHOP COMMENT

For risk reduction, the District should consider a staggered schedule and a clear off-ramp once a facility has tried all available and cost-effective measures to reduce risk. Example: five years to get to X in a million; five more years to get to Y in a million. This should be part of the proposal in April.

DISTRICT RESPONSE

See response to Comment #20.

23. WORKSHOP COMMENT

What will happen if an affected facility, after implementing all feasible measures, is unable to bring their risk below the threshold?

DISTRICT RESPONSE

See response to Comment #20.

24. WORKSHOP COMMENT

If risk reduction is triggered, facilities that have already invested in voluntary risk reduction measures should receive credit.

DISTRICT RESPONSE

As a facility that triggers risk reduction must reduce their risk below the reduction threshold, regardless of any reductions that were made in the past, it is unclear what credit could be given except for acknowledging the prior reductions and realizing there is less they would need to do now.

25. WORKSHOP COMMENT

If toxics control (T-BARCT?) is not financially feasible, the facility should receive an exemption for 5-10 years and then review and reassess T-BARCT.

DISTRICT RESPONSE

See response to Comment #20.

26. WORKSHOP COMMENT

The District should evaluate whether the resources that would be spent by industry to control stationary sources would be better spent reducing emissions from mobile sources. Would that not provide a much greater benefit in terms of risk reduction? Note that other facilities, such as distribution centers, have much higher emissions/risks that are not highlighted because they are not captured by AB2588.

DISTRICT RESPONSE

While a case could be potentially made that mobile source reductions would lead to better overall public health, the intent of the Air Toxics “Hot Spots” Program is to find stationary sources that are causing elevated risks to the surrounding population and have those with a high risk notify the affected population and those with significant risk reduce that risk. It should also be mentioned that one requirement of AB423 is to have the District consider adopting an Indirect Source Review rule that might look to control emissions from sources such as distribution centers.

27. WORKSHOP COMMENT

How is “feasible” and “reasonable” determined? We agree these terms should not be defined in the rule, but this should be considered and discussed in the District’s plan. For example, if a facility spends \$500,000 to reduce estimated cancer risk by one, is that reasonable?

DISTRICT RESPONSE

Rule 1210 currently contains guidance on determining feasibility and reasonableness (see, for example, Subsections (e)(3) and (e)(4)), and the District is willing to discuss this guidance with any interested stakeholders.

28. WORKSHOP COMMENT

The “return on equity” concept should be removed. Use of this concept would result in widely disparate ideas of what is “economically feasible.” Regulation language currently defines reasonable as not greater than 10% of the average return on equity. How much is that for a large world-wide manufacturing company? How much is that for a public agency or the Navy?

DISTRICT RESPONSE

The District agrees and plans to replace the “return on equity” concept with one that is easier to understand and more applicable to both industrial facilities and government agencies.

29. WORKSHOP COMMENT

The currently proposed 15-month implementation schedule is overly ambitious and not consistent with other districts.

DISTRICT RESPONSE

The District agrees that this would not be consistent with other districts’ rules. The District will consider if such an implementation schedule is needed or not.

30. WORKSHOP COMMENT

Consider including an exemption for emergency engines which would be consistent with other large districts’ risk rules.

DISTRICT RESPONSE

The District will consider this.

31. WORKSHOP COMMENT

Consider adding definitions of “High” and “Medium Priority” facilities to the rule.

DISTRICT RESPONSE

These terms are not proposed to be used in either Rule 1210 or 19.3. Proposed amended Rule 19.3 does refer to Category A and Category B facilities, and references those to the District's Air Toxics "Hot Spots" Prioritization Procedure, so it appears that separate definitions would not been needed.

JS:jl
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