

**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**

2ND WORKSHOP REPORT

The San Diego County Air Pollution Control District (District) held a second public workshop on January 30, 2020, 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 43 people. The comments and District responses are provided below:

1. WORKSHOP COMMENT

What is your prediction for the number of facilities that will be impacted by the updated list of toxic air contaminants and changing the risk threshold?

DISTRICT RESPONSE

The State Office of Environmental Health Hazard Assessment (OEHHA) and ARB are looking to update the list of Toxic Air Contaminants (TAC) that should be included in the Hot Spots Program. There is no information on what the risk values will be for all of these compounds. The District does not require facilities to test for every chemical on the current pollutant table – only the ones we know are emitted are required to be reported. This update could have an impact on facilities’ risk values but at this time we cannot know how much of an effect.

2. WORKSHOP COMMENT

The State has told us they are working hard to develop risk values, and, in some cases, they will estimate these values based on years of health data from similar compounds. It seems like there are very few facilities above these proposed thresholds. Why would the County of San Diego be looking to change these thresholds with all this uncertainty in the coming years when San Diego is in a satisfactory state?

DISTRICT RESPONSE

The San Diego County Air Pollution Control Board (Board) is concerned that having the highest cancer risk reduction threshold in the State is not doing all that can be done to protect the residents in the County. The Board asked the District to evaluate lowering that threshold and present them options to consider. One of these options is to keep the same risk thresholds. Ultimately this decision is up to the Board.

3. WORKSHOP COMMENT

I think the report to the Board should also discuss how risk increased by a factor of 2.7 due to the last OEHHA change. Is it possible to list a potential cost to all the facilities in the County of San Diego?

DISTRICT RESPONSE

Reducing risk to neighborhoods will be vastly different for each type of facility. Some facilities, like landfills, can have formaldehyde controls where the cost is already known. For other facilities, moving the source to a different part of their site can reduce their risk. Facilities in other parts of the State have purchased the houses where the risk exceeds the threshold. Because there are many options, the District cannot do a specific cost analysis. The Board wants to choose the option that protects both public health and industry, and the report will include typical costs of controls the sources may select for the common emissions that drive the risk.

4. WORKSHOP COMMENT

Regarding the technology option, does the District have examples of what reduction in risk it expects to see if someone took a Toxics-Best Available Retrofit Control Technology (T-BARCT) extension?

DISTRICT RESPONSE

It is unknown what level of reductions T-BARCT would provide. The Bay Area Air Quality Management District structured their rule to say that facilities must reduce their risk below the threshold in five years, show they need 10 years or show that they meet T-BARCT, but has not had any facility meet the T-BARCT option yet. Some sources may have the potential to take advantage of this program. The District's existing rule is silent about what happens if the facilities fail to reduce risk in 10 years, and this is for the facilities that are doing their best to reduce risk and adapt to technology that becomes available in the next 10 years. Allowing facilities to keep doing what they are doing while reducing as much risk as they can. T-BARCT will be different for different emission sources. The District is proposing a biannual review for the rule, to ensure facilities are continuing to do all they can to reduce risk.

5. WORKSHOP COMMENT

Earlier, you were saying the T-BARCT extension is not facility-specific but process-specific. Is my understanding accurate?

DISTRICT RESPONSE

This would be an option if the facility cannot get below the reduction threshold. The specific units at a facility (a facility may have one unit or a thousand units) that are above the risk threshold are the units that must have T-BARCT.

6. WORKSHOP COMMENT

What would happen in a situation where a facility has multiple processes that are over the threshold, and they add controls to one of these processes but not the others?

DISTRICT RESPONSE

First, the District would look at the total risk from the facility to see if they are above the threshold. If the facility is above the threshold, all the sources above 1 in a million would be reviewed. If all of those sources above 1 in a million have T-BARCT, then they comply with the extension.

7. WORKSHOP COMMENT

If the facility has 20 other units that are above the threshold without T-BARCT, will the units they have that are T-BARCT be taken into consideration with granting them an additional five years? I understand we do not want to put people out of business, but at what point should we?

DISTRICT RESPONSE

At that point, the facility has already had 10 years to reduce the risk of each process above 1 in a million below the threshold. Every two years after that, the facility will be evaluated to determine what is considered T-BARCT now and is that being implemented. This is not to put people out of business but still move them towards lowering their risk. Companies that are not doing what they can to lower their risk will be found in violation. Evaluating these facilities every two years will likely force the technology because facilities will be asking vendors to help them out with their situation. The vision is for facilities to keep working to reduce their risk and force them to keep moving in that direction.

8. WORKSHOP COMMENT

Where did the two-year review come from? Having been in the review cycle, we feel two years is too short as the review process can take around a year.

DISTRICT RESPONSE

The District wants to ensure that facilities keep marching towards having their facility reach the risk threshold. The District feels that five years is too long and one year is too frequent but ultimately, it is up to the Board.

9. WORKSHOP COMMENT

Will there be any chance for offsets to lower risk, for example, providing funds to decrease mobile sources?

DISTRICT RESPONSE

It would have to be proven that the project being funded is lowering the risk for the surrounding neighborhoods that is impacted by the stationary source. The purpose of the Hot Spots Program is to lower the risk from the stationary source operation to a specific population, and currently there are no provisions to include mobile source reductions.

10. WORKSHOP COMMENT

It looks like there are four options. Will these be going directly to the Board or is there a staff report that will accompany the options?

DISTRICT RESPONSE

The District will be preparing a Board Letter (similar to a staff report) that will be discussing the options and the workshop. Board Letters must accompany anything going to the Board to explain to them what is going on. The Board specifically asked the District to see if the risk should be lowered and to give them options. The District will notify everyone 30 days before the Board meeting with the Board Letter.

11. WORKSHOP COMMENT

For the proposed Voluntary Risk Reduction Program, how will the District enforce facilities to reach and stay under 10 in one million?

DISTRICT RESPONSE

The District has built into the rule what needs to go into a source's commitment to obtaining this goal. First, it must be agreed that the source can realistically make those reductions in two and a half years and it would become a permit condition. If the source is not able to get below 10 in one million, it would have to apply to get that condition modified and it would have to fully comply with Hot Spots and do notifications. Going forward, the District would check the source's risk every year or every two years to make sure it is below 10. If it stays below 10, it is good. If it goes above 10, it has two and a half years to get back down through reductions or changes to the Health Risk Assessment (HRA). If the source gets back down below 10, it can reenter the Voluntary Risk Reduction Program.

12. WORKSHOP COMMENT

The first purposed change to Rule 1210 states, "or as required by the Air Pollution Control Officer". Do other districts have this in their rules or are they on their way to changing this? Also, can the District describe a scenario where this part of the rule would be utilized?

DISTRICT RESPONSE

That language was added into Rule 1210(a) to be specifically clear that the District is going to look at inventories on an annual or biannual basis. If that language was not added, the District would have been forced to use the Hot Spots wording which would only allow inventory every four years.

13. WORKSHOP COMMENT

I wanted to confirm that emergency operations are excluded from risk reduction measures.

DISTRICT RESPONSE

For facilities that only have diesel emergency engines, the District will only look at those on an industry-wide level and those facilities are exempt from Rule 1210. If the facility does not meet this exemption, the District will only quantify the non-emergency usage. In other words, emergency use is not punished in Hot Spots.

14. WORKSHOP COMMENT

Is construction equipment considered routine maintenance? What about the maintenance of the buildings?

DISTRICT RESPONSE

Yes, it is included if a construction company builds things onsite. If a shipyard business builds ships, that is also included. If a business is expanding and it needs additional warehouses, the building of the warehouses is not part of the stationary source activities. Maintenance is included in stationary source activities.

15. WORKSHOP COMMENT

Rule 1210(d)(12) says if a public meeting is required, it takes place 90 days after the public notification. My understanding of the process is that the public will notify the District of their interest, and the District will then determine if a public meeting is required. Could this language be changed so that the start date is the day the District determines the public meeting is required? Setting up these meetings can be quite time-consuming. I am worried that the District might take 50 or 60 days, then the facility is only left with 30 days to set up the meeting.

DISTRICT RESPONSE

The District would not spend 50 days to determine a public meeting. Comments are received within 30 days and the District would know within a week if a public meeting would be required. Typically, if a facility is trying to decide if a public meeting is needed, it should prepare for one because the District tends to default to a public meeting.

16. WORKSHOP COMMENT

Construction or adding on controls can require additional permits from other agencies if the controls require additional buildings. There should be some consideration if it is known that a facility will need to get a CEQA permit that could take three years

DISTRICT RESPONSE

This situation can be considered in allowing more than five years to reach the threshold. The District will have to consider if it will want to allow a total of more than 10 years for risk reduction.

17. WORKSHOP COMMENT

The voluntary risk reduction plan allows changes to be made after the plan is approved. Request language be added to avoid situations where the District may require changes to the plan after the facility has invested resources in procuring emission control equipment.

DISTRICT RESPONSE

If the District becomes aware of new information that should be included into the plan, this will be first discussed with the facility before requiring the plan be approved. For instance, if the new information shows the risk is higher than previously determined, the existing plan may not get the reduction that is needed. If the information shows an easier or less costly method of achieving the reductions, then it would be up to the facility if they want to take advantage of that method.

18. WORKSHOP COMMENT

We recommend that the language in Rule 1210(d)(3)(x)(A) read as “2015 or subsequent updates” or “current OEHHA guidelines”.

DISTRICT RESPONSE

The District agrees and has made that change.

19. WORKSHOP COMMENT

Facilities and the District should get a longer review period for preparing the required public notice. Especially for first-time notifiers, as it might take a while to come to a consensus on how to communicate risk without causing undue alarm.

DISTRICT RESPONSE

While it is important to ensure the notice is factual but does not cause undue alarm, a timeline is needed to ensure the noticing occurs in a timely manner.

20. WORKSHOP COMMENT

Currently, we are only allowed to use direct mail for notifications. Would it be possible to add “or by any means of electronic communication that is found to be acceptable by the District,” into the rule?

DISTRICT RESPONSE

While there has been a trend towards electronic notification for general public notices, this has not happened for directly notifying individuals, as is required by Rule 1210 and also by AB3205 school noticing (for notifying the addresses within 1000 feet of the emission source). For electronic communication to be effective, you would need the emails (or some other electronic method of communicating) of all members of each affected household and all employees of affected businesses. This could be viewed as intrusive and could take longer gathering all this extra information from private citizens. The District will monitor advances in electronic communication

to see if this could work in the future, but at the present time, it would not comply with the State law (California Health and Safety Code Section 44362(b)) that Rule 1210 implements.

21. WORKSHOP COMMENT

We recommend changing the requirement to prepare and distribute a health risk assessment summary from the current timeframe of “...within 30 days of such request...” to “...within 30 days of being notified by the Air Pollution Control Officer of such request...”. Additionally, we recommend the summary be approved “...prior to distribution...” rather than the current language of “...in advance...”. These changes are because the requests will be sent to the District, and the District then sends them to the facility, so giving the facility the full 30 days to prepare and have approved the summary is appropriate. Similarly, not requiring the summary to be prepared prior to a request being made will save resources if no request is made.

DISTRICT RESPONSE

The District agrees and has made that change.

22. WORKSHOP COMMENT

We recommend changing the requirement to hold a public meeting be changed from “...within 90 days after public notification...” to “...within 90 days of the Air Pollution Control Officer notifying the owner or operator of the requirement to hold a public meeting...”. As the facility will not know if a meeting has been requested, or if a meeting will be required, until after the District makes that determination, and that determination will be made after the close of the 30 day period to request a meeting, any delay by the District in making the determination will give less time to the facility to prepare for and schedule the public meeting.

DISTRICT RESPONSE

The District agrees and has made that change.

23. WORKSHOP COMMENT

IEA believes no change in risk threshold is necessary. In the past, when OEHHA reevaluated risk values for pollutants, the risk for certain facilities increased by a factor of about 2.7 while the facilities did not increase emissions at all. The more that is learned about the risk of compounds, the risk thresholds are effectively lowered. San Joaquin Valley’s risk threshold will remain at 100 in one million and we believe San Diego should too.

DISTRICT RESPONSE

Thank you for your comment.

24. WORKSHOP COMMENT

T-BARCT should not be required if it has been determined that implementing T-BARCT is technically infeasible to reduce risks below the significant risk mitigation level.

DISTRICT RESPONSE

T-BARCT means the most effective emission limitation, or retrofit emission control device or control technique, which:

That has been achieved in practice for that source or category of source; or

Is any other emissions limitation or retrofit control technique found by the APCO to be technologically feasible for that source or category of source, or for a specific source, while taking into consideration the cost of achieving health risk reduction, any non-air quality health and environmental impacts, and energy requirements. If there is an applicable Maximum Achievable Control Technology (MACT) standard, the APCO shall evaluate it for equivalency with T-BARCT.

In other words, T-BARCT is limited to controls or reductions that have been achieved in practice and can feasibly be applied to existing units. Additionally, T-BARCT is only applicable if there is a technological reason why the facility, as a whole, cannot reduce below the risk reduction threshold to show individual emission sources at the facility are as well controlled as they can be.

25. WORKSHOP COMMENT

We recommend having a quadrennial review instead of a biannual review as it takes time for facilities to research new effective technology and after this, it will take time for the District to review.

DISTRICT RESPONSE

The District agrees that the proposed two-year review cycle may be too short but feels a four-year review cycle is too long, so the District has changed the requirement to a three-year review cycle.

26. WORKSHOP COMMENT

Why is the District using the SIC codes rather than the NAICS codes?

DISTRICT RESPONSE

The District continues to use SIC codes within the emissions inventory as ARB still requires them to be submitted. However, as there is no need to submit either SIC codes or NAICS codes with a risk reduction audit and plan, the requirement to submit the facility's SIC codes with this plan has been removed.

27. WORKSHOP COMMENT

Facilities should be allowed to submit an HRA documenting risk below the Risk Reduction Plan Threshold as an alternative to the implementation of a Risk Reduction Plan.

DISTRICT RESPONSE

The requirements from Rule 1210 that apply to a facility are based on the most recently approved HRA. Therefore, if a facility is in the midst of implementing a required risk reduction plan but performs a new HRA (due to changing conditions at the facility), and this new HRA is approved and shows the facility is now below the risk reduction threshold, then the facility can request to stop implementing the plan. If the District agrees that continued implementation of the plan is not needed for the facility to remain below the risk reduction threshold, then the facility can stop implementing the plan. As this is how the District currently implements the rule, no additional language needs to be added to Rule 1210.

28. WORKSHOP COMMENT

The District should consider risk based on average emissions over several years. "Lifetime" cancer risk using averaged emissions would make sense.

DISTRICT RESPONSE

The District is considering this approach and has started discussions with OEHHA. Note that no changes to Rule 1210 would be needed to incorporate this concept, if the District and OEHHA determine it is appropriate, as Rule 1210 does not specify how the HRA is performed

29. 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.

DISTRICT RESPONSE

See response to Comment #9 of this Workshop Report, and response to Comment #26 in the *first* Workshop Report.

30. WORKSHOP COMMENT

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

DISTRICT RESPONSE

The District agrees and has removed the previously proposed schedule prior to this second workshop.

31. WORKSHOP COMMENT

We are in favor of switching to 10 in one million for the Risk Reduction Threshold.

DISTRICT RESPONSE

Thank you for your comment.

32. WORKSHOP COMMENT

Regarding the proposed voluntary risk reduction option. While the District is in favor of incentivizing facilities to reduce risk when it is not otherwise required to be reduced, it opposes circumventing the public's right to know what is impacting them. If a facility is over the public notification threshold, they should do the full public notice. If the District wants to incentivize the facility to make reductions, another way to do this should be found.

DISTRICT RESPONSE

This option is only for facilities that are above the public notification threshold, but below the risk reduction threshold, and therefore is only included in rule Options 2, 3, and 4 (as Option 1 uses the same threshold for both, there is no place for this option). There is no legal requirement for these facilities to reduce the risk they potentially pose, only notify the affected people once every 2 years. If a facility chooses this option, they are committing to reducing their risk below the notification level within two and a half years, and the public notification would be done via the District's website – this will not be done without a public notification.

POST-WORKSHOP CHANGES

Change #1: The District has decided to include the toxic air contaminant inventory requirements previously proposed to be in Rule 19.3, to be included in proposed amended Rule 1210. This is to keep the toxic air contaminant requirements within Rule 1210 and preserve Rule 19.3 for criteria pollutant inventories. New section (g) in proposed amended Rule 1210 has been added, along with necessary revisions to sections (a), (d) and (e).

Change #2: The District has decided to re-order the numbering of different options for the risk reduction threshold, as follows:

New Option Number	Risk Reduction Threshold	Old Option Number
1	10 in one million	4
2	25 in one million	3
3	50 in one million	2
4	100 in one million	1

Further discussion of option numbers in this post-workshop changes section will refer to the new numbering system.

Change #3: Pursuant to Comment #18, above, subsection (d)(4)(x)(A) in Options 2, 3, and 4, has been amended to read "...about the 2015, *or subsequent*, update to the...". Note that this relates to the Voluntary Risk Reduction Program requirements that are not included in Option 1.

Change #4: Pursuant to Comment #21, above, subsection (d)(11) in Option 1 and (d)(12) in Options 2, 3, and 4, has been amended to read "...within 30 days of *being notified by the Air Pollution Control Officer of* such requests..." and "...shall be approved ~~in advance~~ by the Air Pollution Control Officer *prior to distribution* and shall...".

Change #5: Pursuant to Comment #22, above, subsection (d)(12) in Option 1 and (d)(13) in Options 2, 3 and 4, has been amended to read "...within 90 days *of the Air Pollution Control Officer notifying the owner or operator of the requirement to hold a public meeting. after public notification.*".

Change #6: Pursuant to Comment #25, above, subsection (e)(6)(v) in all Options has been amended to read "...re-evaluated on a *triennial biennial* basis to determine...".

Change #7: Pursuant to Comment #26, above, subsection (e)(7)(i) in all Options has been amended to read "The name; *and* location ~~and standard industrial classification (SIC) code~~ of the stationary source."