August 13, 2021

San Diego Air Pollution Control District
Attn: Mohsen Nazemi
10124 Old Grove Road
San Diego, CA 92131

Re: Comments to the Proposed amendments to Rule 1210 – Toxic Air Contaminant Public Health Risks-Public Notification and Risk Reduction, Version 08/05/2021

Dear Mohsen,

Thank you for the opportunity to provide comments to the Proposed Amendments to Rule 1210, and for meeting with IEA to discuss the proposed amendments. While we affirm the APCD's commitment to improving air quality and reducing health risks, our members are concerned about the potential significant impacts of these amendments to their operations, and IEA would like to offer the following comments for your consideration.

General Comments

- As directed by the previous Board, please complete a detailed toxic emissions/risk analysis and economic impact analysis similar to those performed by the San Joaquin Valley Air Pollution Control District (SJVAPCD), Bay Area AQMD and South Coast, to validate, via scientific methods, that reducing the Significant Risk Threshold for cancer will actually result in beneficial and meaningful reduction in air toxics emissions and reduce health impacts in affected communities.

- With the proposed lower cancer risk threshold and considering relatively recent changes to OEHHA guidelines in 2015, a large number of stationary sources are anticipated to have a maximum individual cancer risk above 10 in one million. The analysis above should also outline how APCD plans to manage the expected increase in workload associated with many more risk assessments, public notifications, and risk reduction plans triggered under the rule. Specifically, indicate how facilities will be treated consistently and equitably. Much of the current rule language in (d) pertaining to historical basis for triggering a health risk assessment update is proposed to be stricken. There are no new provisions proposed that indicate when a health risk assessment or health risk assessment update will be requested going forward.

- Given that Rule 1210 is APCD's only AB 2588 Hot Spots rule and its proposed amendments are extensive, IEA recommends that it incorporate provisions to address preparation of toxic emission inventories, APCD's process to calculate prioritization scores, and criteria upon which APCD will use to request health risk assessments.

- IEA believes that HRAs requested, submitted, or approved prior to the rule amendment adoption should remain subject to provision language in existing Rule 1210 (i.e.,

proposed amendments should only apply going forward to new Hot Spots related emission inventories).

- The word “potential” is removed throughout the rule. While toxic emissions modeled in AB 2588 health risk assessments should be estimated as “actual” emissions, current rule references describing risk itself as “potential” should remain as such. The word “potential” is inherent to the AB 2588 regulation and appropriate for describing risk.

Significant Risk Threshold

- IEA respectfully recommends that the APCD consider an incremental reduction over time to the proposed Significant Risk Threshold for cancer in (c)(16)(i). Specifically, we recommend that this threshold be reduced by half, to 50 in one million, upon amended rule adoption. The rule would include a provision to further reduce this threshold to 25 and 10 in one million in 3 and 5 years, respectively. This incremental approach would allow the APCD time to evaluate the health impacts, environmental benefits, costs, and business impacts from this reduction. It should be noted that one of California’s largest Air Districts, BAAQMD, which recently chose to reduce the cancer risk threshold, carefully analyzed, and documented the benefits of an incremental reduction approach and chose to use that process to reach their risk threshold of 10 in one million.

Reasonableness of Cost versus Health Risk Reductions

- It appears that the proposed Rule 1210 sets two different cost standards, one embedded in the T-BARCT definition that refers to “taking into consideration the cost of achieving health risk reductions”, and one in the definition of Economically Practicable. IEA believes the reference to cost in the T-BARCT standard is sufficient as long as the APCD consistently and fairly evaluates the cost effectiveness and reasonableness of the cost expenditure versus the reductions achieved. IEA recommends that the proposed definition of Economically Practicable and references to this term be withdrawn from Rule 1210. Further, IEA recommends that APCD develop guidance, in collaboration with stakeholders, regarding cost considerations when requiring T-BARCT.

Annual Public Meeting

- Revisions have been proposed that will require affected stationary sources to conduct a public meeting annually, within 30 days of each public notification, regardless of public interest. IEA agrees that public meetings can be a helpful forum to provide additional information about the risk notification, but such meetings should only be required after assessing whether there is a reasonable amount of community interest in having such a meeting. We therefore recommend retention of the “meeting on request” postcard system, currently used by the APCD to allow APCD to assess community interest before requiring a public meeting. The retention of the post card system helps APCD and the stationary source better understand any areas of concern when developing the agenda for the meeting when there is public interest. It also prevents unnecessary expenditures of resources and staff time supporting meetings that will not be attended.

Timelines

- IEA recommends that APCD consider making the rule timelines for public notification and risk reduction be consistent with those in the CA Health and Safety Code.

- Specifically, please revert back to a 45-day time period in (d)(2) for submitting the public notification plan. In some cases, where thousands of homes/businesses need to be notified, the 45-day time frame is needed to properly identify and confirm the addresses, including sensitive receptors, identify school administrators, determine language needs,

select a public meeting venue; develop the elements of the plans; possibly prepare an optional stationary source informational letter. All of these activities will take time, especially for a facility that becomes subject to public notification for the first time.

- A 15-day time period per (d)(2) may not be sufficient for the APCD to approve the public notification plan. Based on our experience, communication between the APCD and facility may be needed before the plan can be approved and 15 days might not be sufficient to accomplish this in certain circumstances. Please change this timeline back to 30 days.

- A 15-day time period per (d)(3) is not sufficient to implement the public notification plan in situations where thousands of notifications, some bi-lingual, may be needed. Some facilities hire mailing services to assist with implementing the plan, in which case, 15 days would not be sufficient to secure a service, provide the addresses and complete the mailing. Please change this timeline back to 30 days.

- For the risk reduction plan, please change the timeline in provision (e)(1) from 120 days back to 6 months from the date of notification by the APCD. Depending on the level of risk, the facility may need to hire consultants, consult with control technology vendors, coordinate, and consult with the APCD, seek internal approval of plans and funding, and develop the plan. This is a lengthy process that should be done correctly and not rushed. Especially at large and complex facilities, it will not be feasible to perform all steps necessary to evaluate potential risk reduction measures, including re-running HRAs and performing engineering analyses, within 120 days. The six-month time frame is consistent with H&S Chapter 6. Facility Toxic Air Contaminant Risk Reduction Audit and Plan, Section 44391 (f).

- Provision (e)(3) proposes to reduce the period for which the APCO may authorize an extension from five years to three. IEA requests that the five-year extension period be retained. This period is consistent with H&S Chapter 6. Facility Toxic Air Contaminant Risk Reduction Audit and Plan, Section 44391 (c) to ensure there is sufficient time for new technologies to be developed and demonstrated in the field.

Ability to Operate Legally beyond the Extension Time Frame

- If the Significant Risk Threshold for cancer is reduced to 10 in one million, there is a possibility that some facilities in San Diego would not be able to reduce their risk below this level after exercising all available options in the proposed rule, including the grant of extension. It is important that Rule 1210 does not create a compliance condition if the facility cannot meet the unachievable endpoint. The proposed rule should include a way for facilities to continue operating if they have taken all “feasible” and “reasonable” risk reduction steps even if their risk is above the threshold. The intent of AB 2588 is to reduce risk, not to put companies out of business.

- IEA proposes the following language to be added to the rule: “A stationary source that is required to submit a risk reduction audit and plan and has implemented available technologically feasible and economically practicable options may continue to operate legally, under an ongoing emissions reduction plan approved by the APCO, and continue to implement technologically feasible and economically practicable measures to reduce their risks as these measures become available.”

Risk Reduction Plan Requirements

- Provision (e)(4)(ii) requires a facility risk characterization be included with the plan, which includes an updated emission inventory report and health risk assessment, if the risk due to total facility emissions has increased to above or decreased to below the levels indicated in the previously approved health risk assessment. This requirement is not necessary since the Risk Reduction Plan is presumably triggered by a recent HRA and performing another HRA seems redundant and unnecessary. A facility's emissions and risks will vary from year to year based on the normal course of operations. IEA believes an updated HRA, which is a resource-intensive effort, should only be required when emissions increase by more than 20% for pollutants that contribute the most to the estimated health risk. This can be established through the emissions inventory program.
- Please remove Provision (e)(2). This provision seems to give APCD sole discretion to shorten a facility's 5-year period to reduce risk below Significant Risk Thresholds. The proposed 10 in one million cancer risk threshold is so aggressive, and will present challenges related to technology and costs, that this provision does not seem to be necessary.

Public Notification

- Provision (d)(9)(i) requires "receipts from the U.S. Postal Service, which describe the boundaries of notification, and addresses included in the mailing,..". Such receipts describing boundaries do not exist. Please modify to state: "receipts from the U.S. Postal Service or other postage provider for postage and the addresses included in the mailing..".
- Please revert back to biennial notifications if different notification and risk reduction thresholds are incorporated into the rule. It is unclear why the frequency needs to increase when biennial notifications seem to result in very little public interest.

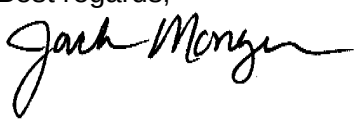
Prioritization Score

- Prioritization Score (PS) definition and references to PS were deleted. We understand the APCD plans to continue PS calculations and refinements. Please confirm and explain the reason for removing the definition for PS. Prioritization scoring is an important tool for determining on which facilities staff resources should focus. This is a critical step in light of the additional facilities that will be subject to the proposed rule modifications.

IEA appreciates the APCD's willingness to work with industry to develop an approach that effectively reduces health risks in San Diego County, while providing reasonable options and time frames for the industry to comply, operate and grow.

Should you require any additional information to support our recommendations or have any questions, we would be happy to respond. In the meantime, thank you for your consideration.

Best regards,



Jack Monger
CEO