

August 19, 2021

Via Email

Angela Fisch
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San Diego Air Pollution Control District
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Re: Comments on the Draft Proposed Amendments to Rule 1210

Dear Ms. Fisch and Mr. Consolacion:

BAE Systems San Diego Ship Repair Inc. (“BAE Systems”) would like to offer the following comments to San Diego Air Pollution Control District’s Proposed Amendments to Rule 1210 (“Proposed Amendments”):

Substantive Issues Regarding the Proposed Amendments

- 1. Significant Risk Threshold.** The Proposed Amendments redefine “significant risk threshold” to include “maximum individual cancer risks equal to or greater than 10 in one million.” This would decrease the current threshold by ten times, and BAE Systems questions the basis or justification for lowering the already-protective threshold. Although Staff points to other air districts that have lowered the threshold to ten in one million, there are other districts which have not chosen to do so, such as the South Coast Air Quality Management District. While Staff has stated that alternatives were considered, it is unclear why it chose to drop those alternatives from its evaluation. BAE Systems believes more information should be provided regarding the justification for the new threshold.
- 2. Public Notification And Meeting Requirements.** The Proposed Amendments would require annual notifications and public meetings in every case where a facility is required to provide notification. An automatic requirement to hold these meetings, where interest and attendance may be minimal, is unlikely to be a productive use of time or resources. In addition, on-line meetings would be much more cost-effective and allow for a larger audience to attend and should be the prime means of conducting these meetings should they be required.
- 3. “Economically Practicable.”** The Proposed Amendments would allow the time period for compliance to be shortened or extended based on what is “economically practicable” for a facility. What is “economically practicable” is a subjective standard and BAE Systems questions the basis of this standard. The District should consider other alternatives for this definition, including a definition based on cost-effectiveness.

4. **Socioeconomic Impacts.** To date, the District has not conducted or circulated a socioeconomic impact assessment for public review. (Health & Saf. Code § 40728.8.) The Proposed Amendments will impose tremendous costs but the District has not considered the burden on facilities, which will be compounded by such a short period of time to comply.
5. **Cost-Effectiveness.** When an air districts adopts a regulation, it must consider and provide findings related to the cost effectiveness of a control measure. (Health & Saf. Code § 40703.) So far the District has not evaluated the cost-effectiveness of control measures that facilities may have to implement. It also has not proposed any mechanism in the rule that would preclude the need to implement control measures that were demonstrably not cost-effective. Staff must evaluate the relative costs and benefits of moving from 100 in one million to 10 in one million, as well as other interim alternatives such as 50 in one million and 25 in one million. It is also unclear how the District plans to assign levels of control factor/measures based on any calculated risk.

Procedural Issues Regarding the Proposed Amendments

1. **CEQA Review.** Under CEQA, the District must conduct an environmental review of the Proposed Amendments. The District will need to consider impacts such as construction emissions, water quality impacts associated with paving to reduce fugitive emissions, new or additional hazardous materials used at facilities, utility impacts associated with increased electricity consumption, etc. It should also analyze a reasonable range of alternatives to the Proposed Amendments.
2. **Written Analysis and Findings.** The District has not provided the required written analysis and sufficient information to support its findings pursuant to Health and Safety Code Sections 40727 and 40727.2. The District must make findings of necessity, authority, clarity, consistency, nonduplication, and reference. The District's failure to provide sufficient analysis also ignores the May 22, 2019 Board direction to the District that it ***evaluate and analyze*** lowering the cancer risk significance threshold in Rule 1210.
3. **Public Notice.** The District must also publicly notify potentially affected parties under Health and Safety Code Section 40725. But this is not currently possible due to the backlog of HRAs in the district. There can be no meaningful opportunity for participation in the rulemaking process for facilities that cannot know what, if any, affect the action will have on their operations.

Given the above issues, the District should consider postponing adoption of the Proposed Amendments until such a time that proper evaluation can be completed. BAE Systems also requests that Staff consider the following recommendations:

- Conduct study of incremental benefits and costs associated with lowering the threshold from 100 in one million;

- Conduct a socioeconomic impact assessment;
- Lengthen initial compliance period for achieving Significant Risk Threshold and duration of extensions;
- Revise economic practicability definition to consider cost-effectiveness;
- Retain original public notification and public meeting requirements;
- Conduct review pursuant to CEQA.

Thank you for your consideration.

Very truly yours,

A handwritten signature in blue ink that reads "Lydia Pellecer". The signature is written in a cursive, flowing style.

Lydia Pellecer
Environmental Manager
BAE Systems San Diego Ship Repair