

**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
01/22/20

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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 a 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 a 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 a 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

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DISTRICT RESPONSE

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POST-WORKSHOP CHANGES

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**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

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