

Air Pollution Control District Governing Board
San Diego County Air Pollution Control District
AGENDA ITEM # 04

DATE: November 4, 2021

TO: Air Pollution Control District Governing Board

SUBJECT:

ADOPTION OF PROPOSED AMENDMENTS TO RULE 1210 (TOXIC AIR CONTAMINANT PUBLIC HEALTH RISKS-PUBLIC NOTIFICATION AND RISK REDUCTION)

REQUESTED ACTION:

1. Find that an Environmental Review of proposed amended Rule 1210 – Toxic Air Contaminant Public Health Risks-Public Notification and Risk Reduction has been completed in accordance with Section 15187 of the California Environmental Quality Act (CEQA), and that these proposed amendments are exempt from CEQA under Sections 15330, 15301 and Section 15061 subsection (b)(3) of the CEQA Guidelines.

2. Adopt the Resolution entitled: RESOLUTION ADOPTING AMENDMENTS TO RULE 1210 – TOXIC AIR CONTAMINANT PUBLIC HEALTH RISKS-PUBLIC NOTIFICATION AND RISK REDUCTION, OF REGULATION XII OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT

OVERVIEW:

Rule 1210 was adopted in 1996 in response to the California Air Toxics "Hot Spots" Information and Assessment Act (Hot Spots Act), Assembly Bill 2588, which requires local air pollution control districts to evaluate toxic air contaminant emissions from various stationary sources and determine which sources generate emissions that may present public health concerns.

Rule 1210 establishes thresholds and procedures for public notification and risk reduction requirements. Currently, Rule 1210 requires those facilities with significant cancer risks equal to or greater than 100 in one million to reduce those risks within five years. The cancer risk represents the probability that a person might develop cancer due to exposure to the facility's emissions. Rule 1210 also requires facilities to provide public notification to all persons in the affected area when the facility-wide cancer risk is equal to or greater than 10 in one million. The existing Rule 1210 cancer risk reduction threshold of 100 in one million is ineffective since there are no facilities in San Diego County that create a cancer risk above that threshold, and it does not align with the public notification threshold of 10 in one million.

On May 22, 2019, the former San Diego County Air Pollution Control Board directed the Air Pollution Control District (District) to evaluate the cancer risk reduction threshold. After conducting extensive evaluation and considering input from stakeholders, the District is proposing the following amendments to improve public health by reducing the cancer health risk in San

SUBJECT: ADOPTION OF PROPOSED AMENDMENTS TO RULE 1210 (TOXIC AIR CONTAMINANT PUBLIC HEALTH RISKS-PUBLIC NOTIFICATION AND RISK REDUCTION)

Diego County: (1) lower the significant risk threshold for cancer from 100 in one million to 10 in one million; (2) enhance the public notification protocols and public meeting requirements; and (3) consider providing additional time for facilities where it is not feasible to reduce health risks within a 5-year timeframe. The District must consider additional time for some industries because control technology may not be currently available and is still advancing. The proposed amendments include a provision for a 3-year extension to reduce the cancer risk to below the proposed cancer risk reduction threshold. The extension may be granted provided that the facility has installed Best Available Retrofit Control Technology for Toxics (T-BARCT) within the 5-year timeframe. The proposed amendments also provide the potential for additional 3-year extensions provided all technically feasible control measures have been implemented.

The proposed amendments to Rule 1210 are necessary to further protect public health from toxic air contaminants by establishing a health protective threshold, requiring progress toward that threshold to the greatest extent feasible, and aligning the risk reduction and public notification thresholds.

FISCAL IMPACT:

There is no fiscal impact on the District to implement these these recommendations.

PUBLIC ENGAGEMENT AND OUTREACH:

The District released proposed amendments for Rule 1210 on July 8, 2021, and conducted a public workshop on August 5, 2021 to gather input on the proposed amended rule from members of the public, regulated community and other stakeholders. A workshop notice was posted on the District's website and sent by U.S. mail to approximately 3,500 recipients including each air quality permit holder and chamber of commerce in the region. Workshop notices were also sent to over 14,000 subscribers to the District's email notification service, the U.S. Environmental Protection Agency and the California Air Resources Board.

The workshop was attended by 32 people, including members of the public, representatives from businesses, government agencies, the Navy, and local industrial and environmental organizations. Spanish interpretation services were provided during the public workshop, which is also available on the District's YouTube Channel. The District received 12 comment letters after the public workshop and responded to stakeholder comments in the resulting Workshop Report (Attachment E). If the rule amendments are adopted, staff will conduct additional outreach including the distribution of an advisory notice to further inform potentially affected parties.

ENVIRONMENTAL STATEMENT:

The California Environmental Quality Act (CEQA) requires environmental review of actions by public agencies that could affect the environment, unless an exemption applies. In addition, a special rule at Section 15187 of the CEQA Guidelines requires certain regulatory agencies, including air pollution control districts, to conduct an environmental review of actions they take that may require the use of pollution control measures. The District has conducted that review (Attachment D), which includes an evaluation of the potential cumulative impacts of possible compliance actions that sources may choose to take in response to this action. Based on that

SUBJECT: ADOPTION OF PROPOSED AMENDMENTS TO RULE 1210 (TOXIC AIR CONTAMINANT PUBLIC HEALTH RISKS-PUBLIC NOTIFICATION AND RISK REDUCTION)

review, District staff have concluded that three Categorical Exemptions in the CEQA Guidelines are applicable to this action. The action is exempt from CEQA under Section 15330 of the CEQA Guidelines because at sources where control measures could generate a waste side stream, only minor actions would be required to mitigate the release of hazardous substances or wastes, and other regulatory programs already require those actions. The action is also exempt under Section 15301 of the CEQA Guidelines because only minor alterations would be made to existing facilities to comply with the rule changes, and it is exempt under Section 15061(b)(3) of the CEQA guidelines because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

PREVIOUS RELEVANT BOARD ACTIONS:

July 8, 2020 (AP04), Discussion of Amendments to Rule 1210 – Toxic Air Contaminant Public Health Risks-Public Notification and Risk Reduction

May 22, 2019 (AP01), Reducing Cancer Risk for San Diego County Residents

ATTACHMENT(S):

Attachment A – Resolution Adopting Amendments to Rule 1210 – Toxic Air Contaminant Public Health Risks-Public Notification and Risk Reduction, of Regulation XII of the Rules and Regulations of the San Diego County Air Pollution Control District

Attachment B – Background

Attachment C – Socioeconomic Impact Assessment

Attachment D – Environmental Review

Attachment E – Workshop Report

Attachment F – Rule 1210 Change Copy

SUBMITTED BY:

Paula Forbis, Interim Air Pollution Control Officer

CONTACT PERSON(S):

Name	Name
Michael Watt, Deputy Director	Mahiany Luther, Deputy Director
Phone	Phone
(858) 899-0136	(858) 692-9910
Email	Email
Michael.Watt@sdcounty.ca.gov	Mahiany.Luther@sdcounty.ca.gov