

October 25, 2021

Chair Nora Vargas, County Supervisor
San Diego County Air Pollution Control District Governing Board

Via: APCDPublicComment@sdcounty.ca.gov

***Re: Adoption of proposed amendments to Rule 1210 – Toxic Air Contaminant Public Health Risks-
Public Notification and Risk Reduction - SUPPORT***

Dear Chair Vargas:

Environmental Health Coalition (EHC) is very pleased to have the opportunity to express our overarching support for the SDAPCD proposed revisions of Rule 1210.

Support for Risk Threshold of 10 cancers per million

Overall, EHC supports the proposed changes to Rule 1210. Most significantly EHC supports the long overdue revision of the **Significant Risk Threshold to 10 cancers per million**. It establishes a health-protective emission limit for stationary sources, which will result in a requirement to appropriately reduce cancer risks. This change is very significant and meaningful in the real world as it reduces the chances of contracting cancer by 10 times. It also provides consistency with the public notification level of 10 cancers per million which has been in place for many years. It is confusing and distressing for the public to receive notification of exposure to harmful pollution levels without an action plan for reducing these emissions. This rule change brings San Diego into alignment with 11 other districts that have already implemented a 10 in a million-risk reduction threshold.

This rule change is a significant step towards environmental justice as toxic air contaminant (TAC) emitting facilities are not evenly spread throughout the region. Environmental justice communities often have more than their share of facilities that release TACs. If each one is emitting up to the allowed limit and beyond the risk threshold, the cumulative effect can be much higher than that of other communities. No standard exists for what is the upper bound of cancer risk from ambient air that any one community has to bear. For this reason, it is especially important to ensure that each individual facility has minimized its emissions and health risks to its neighbors.

Support for Public Notification and Involvement

Public notification is a critical major function of the rule. Notification must be clear, understandable and easily accessible by the general public. The proposed rule revisions in Rule 1210(d) improves the public's access to information in several important ways. The addition of **public meetings** is a good addition and very necessary for public communication.

EHC offered recommendations during the public workshop process and appreciates the inclusion of more expansive strategies to ensure that the notices and meetings are consistently effective. These additions include: development of APCD guidance and approval for the source communication with the public; guidance on the format and content of meetings; inclusion of maps in the notice, at the meeting and on the APCD website; outreach to schools and other sensitive receptors.

EHC further recommends that as APCD develops its Public Participation Plan separately, those requirements and methods for public engagement should be required for Rule 1210 notification and meeting efforts. We are hopeful that the development of an agency-wide plan will introduce new and more effective methods of engaging the public. One example is the distribution of the notices which should be expanded to include to libraries, health care facilities not included in sensitive receptors, like community clinics; elected officials – local, state, federal; community planning groups and other government-recognized organizations and the notice should be posted on the APCD website.

Recommended Revision: EHC recommends that Section (d)(8) which reads: *“The owner or operator of a stationary source shall provide subsequent public notification **biennially**”* be changed to requiring **annual** public notification regarding updates on the risk reduction plan. Depending on the Risk Reduction Plan elements, an annual notice should be required and potentially a meeting should be convened to provide the community with an update on the progress made and reductions achieved towards the 10/million cancer risk requirement. This is not an additional burden as the source is required to provide annual progress reports to the District. These reports can be utilized for the public notification as well.

EHC appreciates APCD’s response to comments regarding the exemption of industry-wide sources from this rule and the acknowledgement that impacted communities with multiple air pollution sources, should be provided with information about the cumulative impact of these sources, including industry-wide sources.

RISK REDUCTION AUDIT & PLANS: EHC supports and the California Health & Safety code requires the completion of a risk reduction audit and plan. The plan must be completed in a timely manner and should be available for distribution in a draft form for public comment in the public notification and at the community meeting.

In regards to Subsection (e)(2)(iv) – EHC supports the requirements for a “A schedule for implementing the proposed airborne toxic risk reduction measures” and annual progress reports.” These requirements provide clear statement of dates by which the public can expect progress of emission reductions and reduced cancer risks to occur.

Recommended Revisions:

- Add a provision for the APCO to require revisions to the Plan during the 5 year compliance period such as: If information becomes available after the initial APCO approval regarding emissions reduction technologies that may be used by a facility that would significantly reduce health risks to exposed persons or the feasibility of a Plan, the APCO may require or, upon request by a facility owner/operator and approval by the APCO, allow the facility owner/operator to update the Plan to reflect the information and resubmit the Plan to the APCO for approval
- Add to the provision for progress reports to include the compliance status and demonstration of those emission units reducing TACs and health risk. The reports should also include a **technology review** to update on the availability of new emission reducing technology.

Risk Reductions Should Occur as Expeditiously as Possible

Section (e)(1)(i) states that the revised significant risk threshold of 10 in one million applies to inventory years 2018 and later. EHC is concerned that not requiring facilities with earlier inventory years to comply with the revised threshold could slow implementation of the rule and thereby emission and risk reduction. EHC does however, appreciate the District staff's diligent work to catch up on overdue reviews and has confidence that the emission inventories scheduled for completion in 2021 will be submitted and that the District will review them in a timely manner. Assuming that will occur, emission inventories completed prior to 2018 should be updated in 2021 and will be subject to the new rule with health risk assessments in 2022. EHC encourages the District to maintain the required schedule and suggests regular updates, no less frequent than twice a year, to the Board.

Rule 1210 Section (e)(1)(ii) states that as provided by the California Health & Safety Code, a facility must achieve a cancer risk below 10 in a million within 5 years of plan submission, unless granted an extension. EHC supports Sections (2)(i-vi) and (3) which describe the requirements for the Risk Reduction Audit and Plan. These are improved and more explicit.

Recommended Revision to shorten compliance period: EHC recommends retaining the following original language which allows for the APCO to shorten the compliance period if it is possible and advisable to do so:

The Air Pollution Control Officer may shorten the period for an owner or operator of a stationary source to reduce risks to below the significant risk threshold(s) if the Air Pollution Control Officer finds that it is technically feasible and economically practicable for the stationary source to do so or if the Air Pollution Control Officer finds that the emissions from the stationary source pose an unreasonable health risk.

Compliance Extensions

Sections (e)(4) and (5) allow the APCO to provide multiple three-year extensions to stationary sources that have not achieve the required significant risk threshold. While the subsequent sections provide clear and strict requirements for request and approval for extensions, the outcome of these approvals could be prolonged and excessive emissions that expose the impacted community for decades.

California Health & Safety Code Section 44391(c) allows for one 5 year extension beyond the initial 5 year compliance period and reads: The district may lengthen the period to implement the plan required by subdivision (a) by up to an additional five years if it finds that a period longer than five years will not result in an unreasonable risk to public health and that requiring implementation of the plan within five years places an unreasonable economic burden on the facility operator or is not technically feasible.

Recommended Revision: EHC recommends that Rule 1210 be amended to conform with the California Health & Safety Code by allowing **one 5-year extension** to be approved by the district if all requirements are met. If the Board opted to allow additional extensions, the provisions should be increased to require emission reductions from other sources within the facility.

Compliance Extension by Applying T-BARCT

Section (e)(4) requires the demonstration that "... the owner or operator has installed T-BARCT on all emission units within the stationary source contributing to the exceedance of the significant risk threshold(s)."

Recommendation for this process. EHC recommends, that the District create and post a guidance document on-line of how it conducts its T-BARCT review and decision-making. By doing so, this provides that public with an understanding of the District’s process and the public’s ability to participate in an informed and meaningful manner.

Other Provisions that were improved:

- (c)(1) Airborne Toxic Risk Reduction Measure(s) – definition was expanded to state reductions should be “real, permanent, quantifiable and enforceable through District permits or permit conditions.” This is an important amendment that provides more confidence to the public that all possible measures will be required for reduction.
- (c)(23) Toxic Air Contaminant definition was revised to ensure that the APCO may revise the TAC lists when OEHHA updates its TAC information, the TAC tables (Table I, II, and III) are affected and a 30-day notice is published. Members of the public are allowed to petition for TACs to be added to the lists as well.
- (e)(3) Within 30 days of receipt of a risk reduction audit and plan submitted pursuant to Subsection (e)(2), the APCO shall provide public notice of such plan receipt and make the risk reduction audit and plan available for public review and provide for a 30 day comment period.

EHC encourages the SDAPCD Governing Board to approve Rule 1210. This measure is likely one of the most important environmental justice actions SDAPCD can take, and we appreciate your diligence to move forward with it.

Sincerely,



Diane Takvorian
Executive Director

cc:

- Vice Chair Esther Sanchez
- Board Member Consuelo Martinez
- Board Member Nathan Fletcher
- Board Member Stephen Whitburn
- Board Member Marcus Bush
- Board Member Jack Shu
- Board Member Sean Elo-Rivera
- Board Member Georgette Gomez
- Board Member Enrique Medina
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