



**Air Pollution Control Board**  
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## COMPLIANCE ADVISORY

### NOTICE OF ADOPTION OF NEW RULE 1210, TOXIC AIR CONTAMINANT PUBLIC HEALTH RISK - PUBLIC NOTIFICATION AND RISK MITIGATION

On June 12, 1996 the Air Pollution Control Board adopted a new Rule 1210 (Toxic Air Contaminant Public Health Risk - Public Notification and Risk Mitigation). The rule provides criteria and procedures for public notification of health risks posed by emissions of toxic air contaminants, and health risk reduction required by state law.

#### **Applicability**

Rule 1210 applies to any facility that emits toxic air contaminants listed in the rule and that is required to prepare a public health risk assessment pursuant to the state Health and Safety Code provisions enacting the Air Toxics "Hot Spots" Information and Assessment Act.

A health risk assessment is an analysis estimating the potential increased chance of developing adverse health effects (both cancer and non-cancer) as a result of exposure to toxic air contaminants. Risk assessments can be performed by a facility owner or operator, or a third party, but must be approved by the District and the state Office of Environmental Health Hazard Assessment.

#### **Exemptions**

Rule 1210 is not applicable to facilities for which industry-wide generic public health risk assessments are prepared by the District. A definition of the industry-wide generic public health risk assessment is provided in the rule.

### **PUBLIC HEALTH RISK NOTIFICATION REQUIREMENTS**

#### **Criteria for Public Notification**

A public health risk notification is required if a facility's health risk assessment indicates a cancer risk of 10 in one million or more or a cancer burden of one or greater. For non-cancer (long-term) and acute (short-term) exposures, public notification is required if a total hazard health index is 1.0 or more (up to 5.0 or more in certain cases).

#### **Health Risk Assessments to be used for Public Notification**

Rule 1210 requires that public notification be based on the most recent approved health risk assessment. If the most recent approved assessment is based on a facility's 1989 emissions, an updated health risk assessment can be used for public notification. The facility must submit it in accordance with the schedule specified in the rule and must demonstrate that potential public health risks are likely to have dropped either below any of the public notification or the significant risk reduction levels, or by at least 80% from any of the overall facility risk levels in the approved 1989-based health risk assessment. The facility must also demonstrate that the decrease in public health risks is permanent, quantifiable and enforceable.

8/7/96

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**Procedures for Preparation, Submittal and Dissemination of Public Notification**

Public notifications must be mailed in accordance with a Public Notification Plan approved by the District. The plan must be submitted within 45 days of notice from the District that public notification is required. Public notices must be mailed within 30 days of the plan approval by the District and contain all the information required by the rule.

Notifications must be mailed directly to residences, workplaces, schools, day care centers, hospitals and convalescent homes through the US Postal Service in envelopes supplied by the District. If five or more percent of recipients within any census tract subject to notification are non-English speaking and have the same primary language, multilingual notification is required.

A facility must provide public notifications annually if its estimated public health risks are above significant risk mitigation levels. It must provide public notifications once every two years until its estimated health risks are reduced below public notification levels.

**Additional Information to Persons Receiving Public Notification Letters**

Within 30 days of a request from any person who has received a public notification letter, the owner/operator of a facility must provide a public health risk assessment summary approved by the District. The summary must include information about the facility operations, emissions, potential cancer and non-cancer public health impacts, and any past or ongoing health risk reduction efforts.

**Requirements for a Public Meeting**

Based on public response, the District may require the owner/operator of an affected facility to hold a public meeting to discuss toxic air contaminant emissions and associated public health risks. The meeting must occur within 90 days after the initial public notification. Notice of the meeting must be sent to all persons expressing interest in having a meeting at least 14 days prior to the meeting.

The meeting must be held at a time and place that facilitates public attendance with translators present if five percent or more of the expected audience is non-English speaking.

**HEALTH RISK MITIGATION REQUIREMENTS**

**Criteria for Risk Mitigation Measures**

In accordance with state law, Rule 1210 requires facilities whose toxic air contaminant emissions are above significant health risk levels to reduce emissions of toxic air pollutants, thus reducing public health risks.

Risk reduction measures are required if a facility's most recent approved public health risk assessment indicates maximum incremental cancer risks equal to or greater than 100 in one million, or a cancer burden equal or greater than one. For noncancer chronic and acute exposures health risk reduction measures are required if the total estimated Health Hazard Index is 1.0 or greater (up to 5.0 or greater in certain cases).

Facilities with these estimated health risk levels must prepare a risk reduction audit and plan. A risk reduction audit and plan is a study which identifies sources and emissions of toxic air contaminants that cumulatively result in potentially significant public health risks and which proposes risk reduction measures that are sufficient to reduce risks to less than significant levels.



**Health Risk Assessments to be used for Risk Reduction Audits and Plans**

A risk reduction audit and plan must be based on the most recent approved health risk assessment. Facilities whose most recent approved risk assessment is based on 1989 emissions but who are eligible to update this health risk assessment under Rule 1210 will be allowed to do so before being required to prepare and submit a risk reduction audit and plan.

**Schedule for Submittal and Implementation of Risk Reduction Audits and Plans**

A facility must submit a risk reduction audit and plan within six months of written notice from the District that their most recent approved risk assessment indicates potential public health risks above significant risk levels. The risk reduction audit and plan must contain all of the elements specified in the rule and must be signed by a professional engineer, a registered environmental assessor or an individual responsible for operations at the facility.

Emissions of toxic air contaminants resulting in the significant risk levels must be reduced in accordance with the District-approved plan within five years from the date of its submittal. The District may shorten the five-year period if it finds that emissions from the facility pose an unreasonable risk and that risk reduction measures are technically and economically feasible.

The District may also lengthen the five-year period by up to an additional five years provided that the longer time will not result in an unreasonable risk to public health and that the required risk reduction measures will impose an unreasonable economic burden on a facility or are not technically feasible. The time extension must be requested by the owner/operator of the facility and all relevant information needed to satisfy all the criteria for the time extension specified in the rule must be included in the request. A facility must begin implementation of its risk reduction audit and plan as soon as it has been notified by the District that the plan is complete. Risk reduction measures will be incorporated into District permits for affected emission units.

**Fees for Public Notification and Risk Reduction Audits and Plans**

All costs incurred by the District in conjunction with public notifications, risk assessment updates, and review and implementation of risk reduction audits and plans are recoverable through fees paid by the owner/operator of affected facilities in accordance with Section (m) of District Rule 40. These costs will be invoiced as part of the regular Air Toxic "Hot Spots" program fees billing.

A copy of Rule 1210 can be obtained by calling (619) 694-3307. If you have any questions concerning its requirements please call Tom Weeks at (619) 694-3894 or Mike Lake at (619) 694-3313.