

# **FINAL STAFF REPORT**

## **ADMINISTRATIVE AMENDMENTS TO RULE 1200 (TOXIC AIR CONTAMINANTS-NEW SOURCE REVIEW) AND RULE 1210 (TOXIC AIR CONTAMINANT HEALTH RISKS-PUBLIC NOTIFICATION AND RISK REDUCTION)**

San Diego County Air Pollution Control District  
Rule Development Section

Completed by Robert Reider  
Reviewed by Nick Cormier

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## **EXECUTIVE SUMMARY**

This report presents information on proposed amendments to Rule 1200 (Toxic Air Contaminants-New Source Review) and Rule 1210 (Toxic Air Contaminant Health Risks-Public Notification and Risk Reduction) of the San Diego County Air Pollution Control District (District). These rules reflect the requirements of State law to reduce public exposure to toxic air contaminants (TACs) emitted by new or modified stationary sources (under Rule 1200) and by existing facilities (under Rule 1210). The proposed amendments are administrative in nature and will increase efficiency in District administration of these rules and enhance their consistency with statutory requirements applicable to the rule approval process.

First, the proposed amendments to Rules 1200 and 1210 will remove (from both rules) Tables I-III, which list the District's Toxic Air Contaminants requiring assessment of potential cancer (Table I), chronic noncancer (Table II), and acute noncancer (Table III) impacts. This information will be incorporated by reference instead, i.e., replaced with statutory references to the State's official and most-current lists of all known TACs and corresponding health risk values established under State law. If approved by the Governing Board, these amendments will prevent the time and need for future updates to Rules 1200 and 1210 whenever the State adopts new health risk values.

Second, the proposed amendments to Rules 1200 and 1210 will remove (from both rules) a streamlined process for updating Tables I-III, which currently authorizes the Air Pollution Control Officer to update the health risk information in the tables directly (without a public hearing or Governing Board consideration) following State approval of new or revised health risk values and following District publication of a 30-day public notice. The California Air Resources Board (CARB) recently completed an audit of the District's air quality program including Rules 1200 and 1210, and found that the streamlined process for updating these rules is not fully consistent with statutory requirements applicable to the rule approval process in the California Health & Safety Code as it changes the text of the rules without Governing Board approval and therefore should be removed.

The following statements summarize important elements of the proposed rulemaking:

### Comparative Analysis

An analysis comparing proposed amended Rules 1200 and 1210 with applicable requirements of federal and local regulations ("Comparative Analysis") is not required because the proposed rule amendments are administrative in nature and do not impose a new emission limit or standard, make an existing emission limit or standard more stringent, or impose new or more stringent monitoring, reporting, or recordkeeping requirements.

### Socioeconomic Impact Assessment

An assessment of the socioeconomic impacts of the proposed amendments to Rules 1200 and 1210 is not required because the proposed amendments are administrative in nature and do not impose additional requirements on affected sources and will not significantly affect air quality or emissions limitations.

### California Environmental Quality Act (CEQA)

The proposed amendments to Rules 1200 and 1210 are administrative in nature and are exempt from the provisions of the California Environmental Quality Act (CEQA) as they do not constitute a project as defined in CEQA and there is no possibility that the activity in question may have a significant effect on the environment.

### Environmental Justice

The proposed amendments to Rules 1200 and 1210 support the District's commitment to integrating environmental justice and equity in District's operations, policies, and regulations. The proposed amendments will help ensure that the process for rule approval is fully consistent with statutory requirements, and that affected sources and the public within San Diego County are informed and have access to the State's official and most-current information on toxic air contaminants (TACs) for use in conducting health risk assessments (HRAs).

## **I. INTRODUCTION**

Rule 1200 (Toxic Air Contaminants-New Source Review) and Rule 1210 (Toxic Air Contaminant Health Risks-Public Notification and Risk Reduction) reflect requirements of State law to reduce public exposure to TACs emitted by new or modified stationary sources (under Rule 1200) and by existing facilities (under Rule 1210). Some of the types of toxic compounds and their sources addressed by these rules include (but are not limited to) diesel particulate matter from stationary engines, benzene from gasoline dispensing facilities, hexavalent chromium from chrome platers, and arsenic from haul roads. Rule amendments are proposed to increase efficiency in the District's administration of the rules and to strengthen their consistency with State law.

## **II. BACKGROUND**

Rule 1210 was initially adopted on June 12, 1996, in response to the California Air Toxics "Hot Spots" Information and Assessment Act (Assembly Bill 2588), which required local air pollution control districts to address public concerns over TAC emissions from various stationary sources. The rule applies to existing facilities, requiring a health risk assessment (HRA)<sup>1</sup> of emissions of concern, public notice of any significant health risks, and implementation of control measures as necessary to meet the specified health risk limits for cancer and noncancer impacts in the surrounding community. Rule 1210 was amended on November 4, 2021, to lower the significant risk threshold for cancer from 100 in one million to 10 in one million; enhance the public notification protocols and public meeting requirements; and provide additional time for facilities where it is not feasible to reduce health risks to acceptable levels within a 5-year timeframe.

Rule 1200 was adopted on June 12, 1996, and applies to proposed new or modified stationary equipment and processes as opposed to existing facilities (which are covered under Rule 1210). Specifically, Rule 1200 requires an HRA during the permitting process and best available control technology as necessary to meet the specified health risk limits for cancer and non-cancer impacts. To date, Rule 1200 has not been amended since its initial adoption.

Implementation of Rules 1200 and 1210 requires a coordinated multi-agency effort in accordance with State law. CARB is responsible pursuant to Section 44321 of the California Health and Safety Code (HSC) for identifying all known TACs that pose a threat to public health. The California Office of Environmental Health Hazard Assessment (OEHHA) is required by HSC Section 44360 to prepare guidelines and procedures for preparing HRAs. The health risk data (for potential cancer and noncancer effects) to be used when conducting HRAs are identified in OEHHA's Technical Support Document, which is updated periodically to add new or revised health risk values based on the latest information. OEHHA must follow a public process whenever adopting or amending health risk values including public review and workshops, and consideration by a State panel of scientific experts.

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<sup>1</sup> An HRA is a computer-driven analysis estimating the potential increased chance of developing adverse health effects (both cancer and noncancer) because of exposure to toxic air contaminants. HRAs required by Rules 1200 and 1210 must be conducted in accordance with procedures and health effects data adopted by OEHHA.

The State information listing all known TACs and their corresponding health risks is then used locally to implement District Rules 1200 and 1210. Specifically, both rules currently include Tables I-III listing the TACs requiring assessment for potential cancer (Table I), chronic (long-term) noncancer (Table II), and acute (short-term) noncancer (Table III) health impacts. Consequently, whenever the State approves a new pollutant with health risk values for use in HRAs, the District is obligated to amend Rules 1200 and 1210 to update Tables I-III accordingly. This is a common occurrence, as Tables I-III have required updating at least 15 times since the rules were initially adopted, including most recently on June 5, 2024. Since then, OEHHA has adopted a Cancer Inhalation Unit Risk Factor (IUR) for Isoprene,<sup>2</sup> a chemical compound used in industrial processes, consequently Tables I-III are noncurrent once again.

To help manage the workload of frequent rule amendments, both Rules 1200 and 1210 currently include a streamlined process for updating Tables I-III. It authorizes the Air Pollution Control Officer to amend the tables directly upon the State's approval of new or revised health risk values, following the District's publication of a 30-day public notice, and without consideration of the Governing Board.

However, CARB recently completed an audit of the District's air quality program in accordance with Assembly Bill 423 (Gloria, Statutes of 2019). CARB found that the streamlined process in Rules 1200 and 1210 for approving updates to Tables I-III is not fully consistent with the procedural requirements of State law as it changes the text of the rules without Governing Board approval. The proposed rule amendments will address CARB's finding by striking this streamlined process for updating the tables and instead refer directly to the State's official lists of TACs and health risk values established under State law.

### **III. CONTROL TECHNOLOGIES**

This section is not applicable to the proposed amendments to Rules 1200 and 1210, as they are solely administrative in nature will not impose new or amended control requirements on affected sources. The proposed amendments will increase efficiency in District administration of these rules and their consistency with statutory requirements applicable to the rule approval process.

### **IV. SUMMARY OF PROPOSED RULE AMENDMENTS**

The proposed amendments to Rules 1200 and 1210 will address CARB's audit finding described above by removing the streamlined process for approving rule amendments as necessary to update Tables I-III for each respective rule. Tables I-III themselves will be removed and the TACs and health risk values will be "incorporated by reference" instead, i.e., replaced with statutory references to the State's official and most-current lists.

A more complete summary of the proposed amendments to each rule is provided below.

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<sup>2</sup> <https://oehha.ca.gov/media/downloads/crn/isopreneadoptmemo010325.pdf>.

## **Rule 1200**

### **Section (c) – Definitions**

The definition of “Total Acute Noncancer Health Hazard Index” was revised to replace a reference to Table III (acute noncancer impacts) with a statutory reference to the State’s corresponding information established under State law.

The definition of “Total Chronic Noncancer Health Hazard Index” was revised to replace a reference to Table II (chronic noncancer impacts) with a statutory reference to the State’s corresponding information established under State law.

The definition of “Toxic Air Contaminant” was revised to replace references to Tables I-III with statutory references to the State’s corresponding information established under State law.

The streamlined process for approving updates to Tables I-III was removed.

### **Section (d) – Standards**

A reference to Tables I-III was removed.

### **Section (e) – Procedures**

A reference to Tables I-III was removed.

A reference to the HRA guidelines of the California Air Pollution Control Officer’s Association (CAPCOA) was removed and replaced with an updated reference to the HRA guidelines from OEHHA.

### **Tables**

Tables I-III were removed.

## **Rule 1210**

### **Section (c) – Definitions**

The definition of “Total Acute Noncancer Health Hazard Index” was revised to replace a reference to Table III (acute noncancer impacts) with a statutory reference to the State’s corresponding information established under State law.

The definition of “Total Chronic Noncancer Health Hazard Index” was revised to replace a reference to Table II (chronic noncancer impacts) with a statutory reference to the State’s corresponding information established under State law.

The definition of “Toxic Air Contaminant” was revised to replace references to Tables I-III with statutory references to the State’s corresponding information established under State law.

The streamlined process for approving updates to Tables I-III was removed.

## Tables

Tables I-III were removed.

## **V. STATUTORY REQUIREMENTS**

Prior to adopting, amending, or repealing a rule or regulation, HSC Section [40727](#) requires findings of necessity, authority, clarity, consistency, non-duplication, and reference based upon information developed pursuant to HSC Section 40727.2, information in the rulemaking record maintained pursuant to HSC Section 40728, and relevant information presented in the Governing Board hearing. District staff has made these findings and present the details of the analysis in the Resolution for adopting the proposed amendments to Rules 1200 and 1210.

Pursuant to HSC Section 40727.2(j), the District determined no additional fees would need to be collected from regulated entities to recover any additional costs imposed by the development and implementation of the proposed amendments to Rules 1200 and 1210.

## **VI. COMPARATIVE ANALYSIS**

HSC Section 40727.2(a) requires a comparative analysis of the proposed amendments to Rules 1200 and 1210 with existing federal, State, and local air pollution control requirements applying to the same source categories. However, the District finds this analysis is not required pursuant to HSC Section 40727.2(g) because the proposed rule amendments are solely administrative in nature and do not impose a new emission limit or standard, make an existing emission limit or standard more stringent, or impose new or more stringent monitoring, reporting, or recordkeeping requirements.

## **VII. EMISSION SOURCES AND IMPACTS**

The proposed amendments to Rules 1200 and 1210 are solely administrative in nature and will not impose new or amended requirements on emission sources. No new or additional impacts currently subject to HRA requirements are anticipated as a result of the proposed amendments.

## **VIII. ECONOMIC IMPACTS & COST-EFFECTIVENESS**

### Statutory Requirements

HSC Section [40703](#) requires that in adopting any regulation, the District shall consider, pursuant to HSC Section 40922, and make available to the public, its findings related to the cost effectiveness of a control measure, as well as the basis for the findings and the considerations involved. The District shall make reasonable efforts, to the extent feasible within existing budget constraints, to make specific reference to the direct costs expected to be incurred by regulated parties, including businesses and individuals. The District shall also comply with HSC Section [40920.6\(a\)](#) pertaining to cost-effectiveness of best available retrofit control technology as applicable.

### Cost Effectiveness, Incremental Cost-Effectiveness, and Other Costs

Cost effectiveness accounts for the cost of emission reductions, typically expressed in dollars spent per pound or ton of emissions reduced. The District finds that a cost effectiveness evaluation (including an evaluation of incremental cost-effectiveness and other costs) is not applicable to the proposed amendments to Rules 1200 and 1210 pursuant to Section 40920.6(a), since the amendments are solely administrative in nature and do not impose new or amended requirements on affected sources.

### Socioeconomic Impacts Assessment (SIA)

Per HSC [40728.5](#) (if applicable), whenever a district intends to propose the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations, that agency shall, to the extent data are available, perform an assessment of the socioeconomic impacts of the adoption, amendment, or repeal of the rule or regulation. The Governing Board shall actively consider the socioeconomic impact of regulations and make a good faith effort to minimize adverse socioeconomic impacts. This section does not apply to the adoption, amendment, or repeal of any rule or regulation that results in any less restrictive emissions limit if the action does not interfere with the district's adopted plan to attain ambient air quality standards or does not result in any significant increase in emissions.

The District finds that an assessment of the socioeconomic impacts of the proposed amendments to Rules 1200 and 1210 is not required pursuant to HSC Section 40728.5(a). The proposed rule amendments are solely administrative in nature and will not impose new or more stringent requirements on affected sources and will not significantly affect air quality or emissions limitations.

## **IX. ENVIRONMENTAL ANALYSIS**

### CEQA

CEQA (California Public Resources Code Sections 21000 et seq.) and the CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.) require environmental review of certain actions. District staff conducted a review of whether CEQA applies to adoption of the proposed amendments to Rules 1200 and 1210. The District finds that the proposed amendments to these rules are solely administrative in nature, designed to increase efficiency in District administration of these rules and enhance their consistency with statutory requirements applicable to the rule approval process. Therefore, approval of the proposed rule amendments is exempt from CEQA under Section 15378(b)(5) of the State CEQA Guidelines because the amendments do not constitute a "project" as defined by CEQA but are an administrative action that will cause no direct or indirect foreseeable change to the physical environment. Further, the proposed amendments are categorically exempt from CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines, since it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

### Analysis of Expected Methods of Compliance

If Tables I-III and their associated TAC information are removed from Rules 1200 and 1210 as proposed, affected sources may still readily access the State's official and most-current lists of TACs and health risk values on CARB's and OEHHA's websites as necessary for implementation

and compliance. To facilitate access, staff will develop a dedicated District webpage highlighting pertinent State information including web links to the most-current lists of TACs and health risk values. (Planned additional outreach is described further in Section X.)

Environmental Justice

The proposed amendments to Rules 1200 and 1210 support the District’s commitment to integrating environmental justice and equity in District’s operations, policies, and regulations through its adopted Public Participation Plan, ensuring the rule approval process is consistent with statutory requirements and affected sources and the public within San Diego County are informed and have access to the State’s official and most-current information on TACs for use in conducting HRAs.

**X. RULE DEVELOPMENT AND PUBLIC PARTICIPATION PROCESS**

A bilingual fact sheet regarding the proposed amendments to Rules 1200 and 1210 was posted on the District’s website and a virtual public workshop was conducted on September 25, 2024, to gather feedback from the public, environmental community, regulated sources, and other stakeholders. The District also notified and invited attendees of the Portside and International Border Assembly Bill 617 Community Steering Committee meetings in September 2024. The workshop was attended by 61 people.

Additional local outreach is planned via a tentative communication plan if the proposed rule amendments are adopted. This includes development of a new District webpage dedicated to TACs that will include but is not limited to: links to State websites for the list of approved chemicals and health values, OEHHA Air Toxics Hot Spots information, and links for users to receive updates directly from OEHHA. Further, the webpage will announce (via a banner) whenever a new TAC has been adopted by the State, as well as high level information about the pollutant being added. The webpage will also include general information on how and when the newly listed pollutant takes effect locally and must be considered in relation to permit applications, “Hot Spots” inventories/prioritization scores/HRAs, and Risk Reduction Plan applications.

Rule Change Copy Formatting

The District uses specific formatting procedures in draft rule change copies, as shown in Table 1, that are released for public review. This ensures all changes can be adequately tracked by staff and the public throughout the rule development process.

**Table 1. Rule Development Change Copy Formatting Procedures**

	New Rule	Example Language	Revised Rule	Example Language
<b>Public Workshop Change Copy</b> (Prior to Public Workshop)	Normal text, no formatting needed	“Change of Ownership”	Single underline/ Single strikeout	<u>“Change of Ownership”</u> <del>“Change of Ownership”</del>
<b>Post-Workshop Change Copy</b> (Prior to Governing Board consideration)	Single underline/ Single strikeout	<u>“Change of Ownership”</u> <del>“Change of Ownership”</del>	Double underline/ Double strikeout	<u><u>“Change of Ownership”</u></u> <del><del>“Change of Ownership”</del></del>

<b>2<sup>nd</sup> Public Workshop Change Copy if needed</b> (After first workshop and prior to Governing Board consideration)	Double underline/ Double strikeout	<del>“Change of Ownership”</del> <del>“Change of Ownership”</del>	Single underline/ Single strikeout/ Italics	<del>“Change of Ownership”</del> <i>and location</i>
<b>Post 2<sup>nd</sup> Workshop Change Copy or other changes if needed</b>	Single underline/ Single strikeout/ Italics	<del>“Change of Ownership”</del> <i>and location</i>	Double underline/ Double strikeout/ Italics	<del>“Change of Ownership”</del> <i>and location</i>

Please note that for Section (d)(1) within the Rule 1200 Change Copy, there is existing verbiage that was previously underlined. This verbiage includes the mentions of “T-BACT Not Applied”, “T-BACT Applied”, and “Maximum Incremental Cancer Risk Greater Than 10 in One Million” within Section (d)(1). For clarity when reviewing the Change Copy, it should be noted that this language has not been added or revised in the proposed amended rule.

## XI. OTHER RULE AMENDMENTS

Currently, there are no other District rulemakings in process that are directly tied to the proposed amendments to Rules 1200 and 1210.

## XII. CONCLUSION

This Staff Report addresses all the requirements specified in HSC Sections 40725 through 40728.5 for rule development. The proposed amendments to Rules 1200 and 1210 are administrative in nature and will not impose any new or more stringent requirements on affected sources. The proposed amendments will increase efficiency in District administration of these rules, enhance their consistency with statutory requirements applicable to the rule approval process, and help to ensure that affected sources and the public within San Diego County are informed and have access to the State’s official and most-current information on TACs for use in conducting HRAs.

## XIII. REFERENCES

There are no references to this report.

## XIV. ATTACHMENTS

There are no attachments to this report.