



May 1, 2015

Dr. Barry Wallerstein, Executive Officer
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765

Dear Dr. Wallerstein:

Re: Comments on the Proposed Amended Rules to Implement Revised OEHHA Risk Assessment Guidelines

The Southern California Alliance of Publicly Owned Treatment Works (SCAP) appreciates this opportunity to communicate our concerns regarding proposed amended rules to implement revised OEHHA risk assessment guidelines. SCAP represents 83 public agencies that provide essential water supply and wastewater treatment to nearly 19 million people in Los Angeles, Orange, San Diego, Santa Barbara, Riverside, San Bernardino and Ventura counties. SCAP's wastewater members provide environmentally sound, cost-effective management of more than two billion gallons of wastewater each day and, in the process, convert wastes into resources such as recycled water and renewable energy.

As essential public service providers, our concerns focus primarily on Proposed Amended Rule 1402 and risk communication issues resulting from revised OEHHA risk assessment guidelines. Our members strive to operate environmentally friendly facilities and to be good neighbors, so we are greatly concerned about the potential negative public perception that will be caused by Proposed Amended Rule 1402. As drafted this rule will require many facilities that have historically reduced emissions in good-faith to suddenly notify surrounding residents of an unacceptable facility-wide health risk. Because toxic emissions have actually declined significantly basin-wide, we believe that SCAQMD should carefully rollout efforts to implement the new risk guidelines and take steps to work with industry, such as encouraging voluntary risk reductions. These efforts, coupled with a comprehensive risk communications program will minimize potential confusion and avoid alarming community members.

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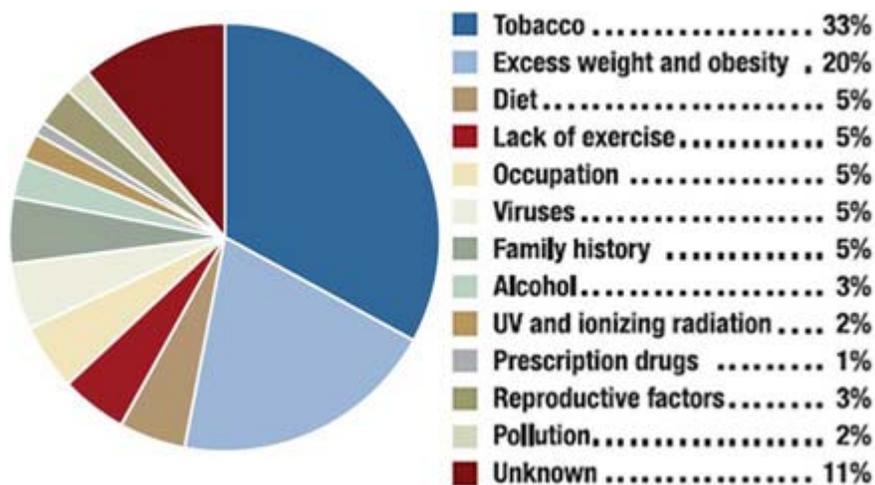
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Risk Communication

SCAP believes that it is extremely important for SCAQMD to develop a clear and concise risk communication document for public consumption. This document should clearly explain that health risk estimates will increase due solely to changes in how risk is calculated, not because the facility has increased toxic emissions beyond currently acceptable levels.

Health risk assessment calculations, resultant risk estimates and regulatory thresholds can be difficult topics to effectively communicate. Risk estimates are typically perceived as an absolute statement of how many in the community will contract, or die from cancer. Due to the sensitivity of this type of information, it is critical for the public to be properly educated to the conservative nature of risk calculations and their practical meaning. It is equally imperative that any public education process include a common-sense foundation for cancer risk. For example, Figure 1 provides a simple frame of reference that would help communities better understand cancer risk. Such an explanation should also denote that most of the cancer risk associated with air pollution is caused by mobile sources as confirmed by the MATES IV report. This type of education isn't intended to minimize the importance of facility risk, but it would provide an important and meaningful perspective. Our membership believes that SCAQMD has a responsibility to help educate the public about preventing all health risk caused by air pollution and other more significant factors.

Figure 1 - Estimated Percentage of Cancer Cases Caused by Identifiable and/or Potentially Preventable Factors



Source: Estimated Percentage of Cancer Cases Caused by Identifiable and/or Potentially Preventable Factors (Colditz, et al., Science and Translational Medicine, 2012)

Proposed Amended Rule 1402

SCAP is troubled that the recent changes to OEHHA's risk assessment guidelines, implemented by Rule 1402, will increase existing facility risk by about a factor of three, or more, without any increase in facility emissions. As good neighbors, our members have expended considerable resources to reduce risk below any action or reporting level, but despite these efforts will now be required to notify the public of an unacceptable risk. Although significant progress has been made in the South Coast Air Basin to reduce toxic emissions, as evidenced through the MATES programs, stationary sources will once again be required to reduce toxic emissions. Such an approach actually avoids the fact that about 92% of the risk is attributed to toxic emissions from the mobile sector. To achieve healthy air in the South Coast Basin, we believe that mobile sources must be controlled to the greatest extent possible.

While we recognize that Proposed Amended Rule 1402 wasn't intended to address mobile source pollution, OEHHA's risk assessment guidelines will impact a considerable number of stationary sources. Because numerous facilities will trigger the public notification threshold, SCAQMD needs to carefully consider how to prioritize this effort. SCAQMD is currently proposing that stationary sources proceed as usual and prepare their AB2588 Quadrennial Inventory Updates. Based upon the prioritization scores from the updated inventories, and incorporating the new risk assessment protocols, SCAQMD will notify high priority facilities to prepare a new health risk assessment, even if they have recently remitted one or gone through a risk reduction effort. Once the health risk assessment is certified, the facility will have to take the necessary public reporting or risk reduction actions. For those who must provide quadrennial updates this or next year, the resulting risk assessments will be finalized within a year or two. However, facilities in the fourth year of the quadrennial cycle will have a more favorable compliance timeline.

Clearly it is not equitable that some facilities will have to undertake this process years before other facilities, based solely upon their position in the quadrennial rotation. No consideration is given to past actions to reduce risk, or that a facility may have just recently gone through the expense and effort to produce a new health risk assessment. To address these inequities, SCAP recommends that SCAQMD work with stakeholders to find acceptable alternatives that would level the playing field, while expeditiously addressing facilities posing the greatest potential risk. Key to this effort would be a mechanism allowing stationary sources early in the quadrennial update process enough time to reduce their risk.

Early Risk Reduction Proposal

SCAP recommends that facilities be provided with the opportunity to voluntarily commit to an early risk reduction program. Under this proposal, a facility would commit to reducing their facility risk to below 10 in a million or a Hazard Index of 1.0. A facility approved to perform early risk reduction would be granted a specific amount of time to construct and commence operation of controls needed to reduce risk below the public notification level. Due to the requirements for public works of construction, we recommend that public facilities be allowed up to 4-years to complete construction. Such a voluntary program would expedite risk reduction for many more facilities than the process outlined in Proposed Amended Rule 1402, and reduce the burden on

SCAQMD staff. In return for committing to early risk reduction actions, we request that approved facilities not be subject to public notification. In addition, we request that the cost for any necessary permits for the risk reduction measures be significantly reduced and expedited permit processing be provided.

SCAP's proposal is consistent with the commencement of the AB2588 Toxic Hot Spots Program, where a significant number of facilities voluntarily reduced risk to avoid public notification. These actions were perhaps the most significant actions ever taken by stationary sources to reduce toxic emissions. The early risk reduction program proposed here would provide a similar opportunity for stationary sources to voluntarily reduce risk. We believe that this is a win-win proposal, where risk reduction will be accelerated without proverbially "shouting fire in a crowded theater".

SCAP recommends the following rule language to implement our risk reduction proposal (new language is denoted in red):

(d) Requirements

Notwithstanding the requirements of subdivision (n), within 150 days of the date of notification by the Executive Officer, an operator shall submit to the District a health risk assessment for total facility emissions. The Executive Officer may require a health risk assessment or an emissions inventory from a facility when, based upon investigation, the Executive Officer determines that emission levels from the facility could potentially cause exceedance of the action risk levels.

The provisions of Section (p) shall not apply, if all of the following actions are taken and achieved:

- 1. Within six months of the effective date of this amended regulation, the operator commits, in writing, to undertake early risk reduction actions to bring the facility risk below 10 in a million or a Hazard Index below 1.0*
- 2. Within six months of the submittal of the risk reduction commitment, an early risk reduction plan (plan) shall be submitted to SCAQMD, as well as a filing of all necessary permit applications*
- 3. The plan shall outline the nature of the risk reduction efforts, as well as relevant timelines*
- 4. Operators shall have three years to complete risk reductions from the date of SCAQMD approval of the plan and permits, whichever is later*
- 5. Public facility operators shall have up to four years to complete risk reductions from the date of SCAQMD approval of the plan and permits, whichever is later*
- 6. The operator shall remit an updated quadrennial inventory within 12 months of the completion of the plan*

Dr. Barry Wallerstein

May 1, 2015

Thank you for the opportunity to comment on the proposed amended rules. Please do not hesitate to contact Mr. David Rothbart of the Los Angeles County Sanitation Districts should you have any questions at (562) 908-4288, extension 2412.

Sincerely,

A handwritten signature in black ink that reads "John Pastore". The signature is written in a cursive style with a large, stylized initial "J" and "P".

John Pastore, Executive Director

cc:

Dr. Philip Fine, SCAQMD
Susan Nakamura, SCAQMD