

MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT

AIR TOXICS "HOT SPOTS" PROGRAM PUBLIC NOTIFICATION PROCEDURES

I. INTRODUCTION

A. BACKGROUND

The Air Toxics "Hot Spots" Information and Assessment Act of 1987 (Air Toxics Act; Health and Safety Code (H&S Code) §§ 44300-44384) was adopted by the California Legislature and signed by the Governor in response to public concern about the release of toxic chemicals to the ambient air. Prior to enactment of the Air Toxics Act, little information was available to assess the types, quantities, and health impacts of toxic chemicals routinely released to the ambient air in California. The Air Toxics Act addresses only routine or predictable releases and not releases due to unforeseen or catastrophic events.

The Air Toxics Act requires facility owners to produce and submit to the Mojave Desert Air Quality Management District (MDAQMD) a comprehensive inventory of routine releases of toxic chemicals to the ambient air. Using the content of this inventory the MDAQMD determines a prioritization score for the facility. The Air Toxics Act requires that those facilities that receive a high prioritization score to prepare and submit Health Risk Assessments (HRA) which estimates the impact of routine air toxics releases. If an HRA indicates a "significant health risk", the Air Toxics Act requires the facility to notify the affected public of this risk. The Air Toxics Act does not specifically define "significant health risk" for public notification purposes. The Air Toxic Act delegated the responsibility for defining "significant health risk" to the local districts.

The Air Toxics Act is a public "right to know" law. In its original inaction it did not require emission reductions nor risk reductions. However, separate legislation (Toxic Air Contaminants Act of 1992- H&S Code §§ 44390-44394), requires emission reductions from facilities posing "significant risk". The Toxic Air Contaminants Act did not specifically define "significant risk" for risk reduction purposes. The responsibility for defining "significant risk" has been delegated to the local districts.

By adopting the Air toxic “Hot Spots” Program “Public Notification Procedures” the MDAQMD is defining “significant health risk” for purposes of H&S Code § 44362(b) as 10 in a million for lifetime Maximum Individual Cancer Risk (MICR) and 1 for non-cancer Hazard Index (HI) and/or Total Hazard Index (THI). This “significant health risk” level is also planned to be used in the “Risk Reduction Audit and Plan Procedures”, which the MDAQMD plans to issue in the future. In addition the MDAQMD is exploring the possibility of defining “significant risk” for the purposes of risk reduction as required by H&S Code § 44391(a) as 100 in a million for lifetime Maximum Individual Cancer Risk (MICR) and 10 for non-cancer Hazard Index (HI) and/or Total Hazard Index (THI).

B. HEALTH RISK ASSESSMENT

The term “Health Risk Assessment” as used in the Air Toxics Act, means an estimate of the probability that an adverse public health effect could occur. The facility's release, release point (stacks, vents, stockpiles, open areas, etc.) characteristics, local meteorological (weather) conditions, chemical dose-response data, etc., are input into a computer program to produce an estimate, of the health risk to the population in close proximity to the facility. The HRAs generated under the Air Toxics Act do not involve studies of actual illness in the local population.

C. NOTIFICATION REQUIREMENTS

The intent of the Air Toxics Act is to inform the public of potential exposure to airborne toxic substances routinely released into the ambient air from facilities, and the potential health risk associated with those exposures. One way the public is informed is through this Public Notification Procedure. This Public Notification Procedure can also be used by a facility to communicate past, present, and future actions taken, or to be taken, to reduce public exposure and risk due to their releases.

This public notification is required pursuant to California Health and Safety Code (H&S Code) § 44362(b), which states:

"Upon approval of the health risk assessment, the operator of the facility shall provide notice to all exposed persons regarding the results of the health risk assessment prepared pursuant to Section 44361 if, in the judgment of the district, the health risk assessment indicates there is a significant health risk associated with emissions from the facility. If notice is required under this subdivision, the notice shall include only information concerning significant health risks attributable to the specific facility for which the notice is required. Any notice shall be made in accordance with procedures specified by the district."

II. SIGNIFICANT HEALTH RISK

The level of risk considered a "significant health risk" for notification is not defined in the Health & Safety Code, but is instead left to the judgment of each air district. The "significant health risk" values are the Maximum Individual Cancer Risk (MICR), the Hazard Index (HI) and the Total Hazard Index (THI) as determined in the HRA. For the MDAQMD, the "significant health risk" levels for the purpose of public notification are defined as follows:

Parameter	Threshold
Lifetime MICR *	10 in a million **
Non-cancer risk (HI or THI)***	1.0 ****

* MICR = Maximum Individual Cancer Risk contributed by the facility.

** 10 in a million corresponds to the warning level required under Proposition 65 (H&S Code § 25249).

*** HI = Hazard Index

THI = Total Hazard Index

**** The District will consult with OEHHA on a case by case basis for an interpretation of HI and THI for specific substance(s) in question to determine if notification is appropriate for non-cancer health effects greater than one.

For public notification procedures the MICR, HI and THI must occur at an occupied site, such as a residency and work site. Therefore, if the MICR, HI and/or THI occurs at a non-occupied site than the "significant health risk" value is either the Maximum Exposed Individual - Resident (MEI-R) or Maximum Exposed Individual - Worker (MEI-W).

III. PUBLIC NOTIFICATION PROCEDURES

A. METHOD OF NOTIFICATION

The primary purpose of this document is to specify procedures which will be used for public notification of significant health risks. The MDAQMD will require a facility to notify the public using the "Single-Level" method. The "Single-Level" method has only one set of thresholds above which the public must be notified. Any facility found to have a MICR, HI or THI above the appropriate threshold will be required to utilize these public notice procedures.

A single consistent format will be utilized for all public notifications. The notification packets will be distributed to all individuals within the area of impact. At this time due to the demographics of the MDAQMD's jurisdiction the MDAQMD only requires that the notification be made in English. The determination whether additional notifications in other languages and/or by additional media will be made on a case by case basis according to legal principles.

Once notification has been made a community meeting will be held, if a sufficient number of survey cards are returned by individuals living or working in the area of impact. The following is the number of survey cards considered sufficient to hold a community meeting:

<u>Number of cards distributed</u>	<u>Number of cards returned</u>
less than 100	5
100 or more	5% of cards distributed

B. TIME LINE

The steps and time line for the MDAQMD public notification procedures are as follows:

STEP	DAY	ACTIVITY
1	1	The District notifies a facility in writing that the estimated risks in a CAL-EPA/District approved HRA exceeds the District's notification threshold(s) for carcinogenic and/or non-carcinogenic (chronic or acute) health effects.
2	15	The District prepares the District notification letter and survey card (District Packet).
3	30	The facility owner/operator prepares their notification letter, and any additional information, (Facility Packet), and submits the Facility Packet to the District for review.
4	45	The facility owner/operator submits either a map and/or, a document which defines the area of impact, a list of recipients within the area of impact to receive the packets, and the method of distribution of the packets to the District for review and approval.
5	60	The District comments on the Facility Packet, area of impact, list of recipients and method of distribution.
6	75	The facility corrects any deficiencies in the Facility Packet, area of impact, list of recipients and method of distribution.
7	120	The facility, reproduces and distributes both the District and Facility Packets. All reproduction and distribution costs are the responsibility of the facility.
8	150	Survey cards must be postmarked on or before this date to be valid as a request for a community meeting.

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| 9 | 155 | District determines if there is sufficient interest to hold a community meeting and notifies the facility of the results. |
| 10 | 200 | Facility submits plans, agenda and public notice for the community meeting to the District for review and approval. |
| 11 | 215 | The District approves or disapproves the facility's plans, agenda and public notice for the community meeting. |
| 12 | 245 | Facility corrects any deficiencies in facility's plan, agenda, and public notice for the community meeting |
| 13 | 260 | Facility publishes public notice for community meeting. |
| 14 | 290 | The facility conducts the community meeting. |

C. AREA OF DISTRIBUTION (AREA OF IMPACT)

Notice materials must be distributed to all addresses, both residential and non-residential, and to all parents of children attending school within the area of impact.

For cancer risk, the area of impact is defined as the geographic area encompassed by the ten in one million (1×10^{-5}) MICR isopleth. For non-cancer health risk, the area of impact is defined as the geographic area encompassed by the 1.0 THI isopleth.

For the purpose of public notification, the definition of “school” is the same as the definition found in H&S Code § 42301.9. Under this definition, “school” means any public or private school used for purposes of the education of more than 12 children in kindergarten or any grade 1 to 12, but does not include any school in which education is primarily conducted in private homes.

D. METHOD OF DISTRIBUTION

The facility owner/operator is responsible for reproducing and distributing copies of the notice materials. Distribution of the notice materials must be conducted by a third party which specializes in mail, delivery service or distribution service. If the method of distribution is by mail or a delivery service, the packets must be enclosed in an envelope with has the MDAQMD return address. The MDAQMD will provide the return address labels.

If the method of distribution is by newspaper, the newspaper must be delivered free to all addresses within the area of impact. Door-to-door hand delivery of such newspaper is not acceptable, in part, because the U.S. Postal Service regulations prohibit the use of individual's mail boxes by unauthorized persons.

E. DISTRICT NOTIFICATION LETTER

The purpose of the District Notification Letter is to inform the public of possible health risks associated with a particular facility's releases. The District letter is a standard form letter, which provides: basic information concerning the Air Toxics "Hot Spots" Program and the risk assessment process; a description of releases and potential health risk from the facility; and information putting risk from the facility into perspective.

Attachments 1 and 2 are sample District notification letters. Most of the bracketed items in the sample letters are self explanatory. However, a few of the items require explanation as follows:

[emitted substance(s)] -- A list of air toxics emitted by the facility. The Air Toxics Act does not require listing of all toxic substances emitted from the facility, but only those constituting 90% of the MICR. Compounds making only a minor contribution to the total risk, and those for which quantitative risk assessment was not required, will not need to be listed. Non-carcinogenic compounds will not be listed if notice is required only for lifetime cancer risk and vice versa.

For example, if a facility's cancer risk exceeded 10 in a million and its total hazard index is less than one, only those substances contributing to the cancer risk would be listed, not those contributing to the insignificant chronic or acute health risk.

[to produce product] -- A brief description of the primary product or function of the facility. This description will be mutually agreed upon by the District and the facility.

[number] -- Chances in a million -- The lifetime (70 years) MICR.

[number] Feet -- The distance from the facility to the location of the maximum exposed individual.

[reference exposure limit] -- An indicator of potential adverse non-cancer health effects. The reference exposure limit is a concentration level or dose at or below which no adverse health effects are anticipated, based on the most sensitive adverse health effect reported in recognized medical and toxicological literature.

[local location] -- The local location for reviewing the HRA should be one or more of the following: public library, school library, community center, facility, etc.

F. FACILITY NOTIFICATION LETTER

The Facility Notification Letter must accompany the District's letter as part of the notification packet. Once the minimum requirements of the Facility Notification Letter are satisfied, the facility owner/operator can convey any additional material they choose to the public. The minimum requirements for the Facility Notification Letter are as follows:

1. Contact name and phone number for the facility;
2. A date when survey card requesting a community meeting must be postmarked; and
3. A reference to the district letter.

If the facility owner/operator chooses to include additional information in this letter, the following information may be included subject to the guidelines below:

1. Reason for emitting toxic substances: More detail may be provided than contained in the District letter. Emission rates may be put into perspective, by comparing them with other sources such as automobiles or consumer products.
2. Steps already being taken to reduce emissions: This may include both required and voluntary efforts. The public may be informed of any reductions which have occurred over the past several years, particularly any reduction occurring since the year for which the risk assessment was prepared. Only enforceable and permanent emission reductions should be included.
3. Future plans to reduce emissions of toxic substances: The percentage reduction and target date should be specified. Only enforceable and permanent future emission reductions should be included.
4. Risk assessment results: The facility may also discuss uncertainties associated with risk assessment and results of an uncertainty analysis. Such a discussion should be brief and cannot minimize the importance of the public notification process. A detailed discussion of these issues might be better presented at the community meeting.

G. COMMUNITY MEETING

A community meeting will be held if a sufficient number of survey cards are returned by individuals living or working in the area of impact. The community meeting must be held at a time likely to enable the public to attend, at a convenient location in close proximity to the facility. Legal, religious, and cultural holiday seasons should be avoided. The location must be accessible to the handicapped. A legal notice announcing the meeting must be published in a newspaper whose local distribution covers the entire area of impact at least 30 days prior to the meeting. The notice must also be sent to all individuals requesting a community meeting. The facility owner/operator must coordinate the community meeting with the MDAQMD.

It is recommended that an impartial moderator be used to conduct the community meeting. The choice of moderator will depend on the community in which the meeting is held. Suggestions for a moderator from the general public should be solicited and considered.

IV. PROPOSITION 65 WARNING REQUIREMENTS

Notification in accordance with the Air Toxics Act Public Notification Procedures will not necessarily satisfy the warning requirements of Proposition 65. Proposition 65 warning requirements differ in several respects from the public notification procedures of the Air Toxic Act. For example, notice distribution frequency specified in these procedures does not comply with Proposition 65 requirements. A facility operator must not assume compliance with the Air Toxics Program notification requirements satisfies Proposition 65 warning requirements. Facility owners/operators can obtain Proposition 65 warning requirements from OEHHA by calling (916) 445-6900.

ATTACHMENT 1

SAMPLE DISTRICT NOTIFICATION LETTER
FOR SIGNIFICANT CANCER HEALTH RISK

[DATE]

Dear Neighbors:

As required by state law, [FACILITY] prepared a Heath Risk Assessment (HRA) based upon their [YEAR] Toxic Emission Inventory Report (TEIR). This HRA shows that you may have been or are being exposed to toxic air contaminants. Since [YEAR], [FACILITY] has taken steps to reduce their release of toxic air contaminants. Therefore, your exposure to toxic air contaminants has been reduced. These reductions are detailed in the accompanying letter from [FACILITY].

Why are you telling me this?

State law requires [FACILITY] to notify you of this exposure. Approximately [NUMBER] homes and business are receiving this notice.

Who is [FACILITY] and what do they do?

[FACILITY] [PRODUCES PRODUCTS]. It is located at [ADDRESS]. A map is enclosed showing the location of [FACILITY]. [FACILITY] emits [EMITTED COMPOUNDS] into the ambient air to [PRODUCE PRODUCTS].

What are the health effects of these emissions to the ambient air?

State law requires [FACILITY] to answer this question, so [FACILITY] has prepared a report called a HRA describing possible health effects. [FACILITY'S] air emissions include toxic compounds and exposure to them may increase your risk of contracting cancer.

The HRA uses a computer program to predict the increase in the risk of contracting cancer due to emissions from [FACILITY]. The HRA has been reviewed by State health experts and the Mojave Desert Air Quality Management District (MDAQMD).

What are my chances of contracting cancer from [FACILITY'S] toxic emissions?

The HRA predicts emissions from [FACILITY] may increase your risk of contracting cancer by as much as [NUMBER] chances in a million. The State and MDAQMD require that some cautious assumptions be used in the computer program to insure risks are not underestimated.

Your actual risk due to these emissions may be less, and may even be as low as zero, because the number calculated by the computer program is for a person living 24 hours a day for 70 years at the point where the impacts of these emissions are the greatest. Real populations do not receive this much exposure to the emissions and thus, have lower risks.

You may review the HRA at [LOCAL LOCATION] or at the offices of the MDAQMD (15428 Civic Drive, Suite 200, Victorville) by making arrangements with Mr. Richard Wales at (619) 245-1661 ext. 1803.

The estimate produced by the HRA only considers current exposure from [FACILITY] for the year [19xx]. This HRA does not include exposure, past or present, due to other toxic air pollutants released by other facilities. This HRA does not consider modifications made to [FACILITY] since [19xx]. These modifications could either decrease or increase the "significant health risk".

Is this a high risk?

The amount of risk is a matter of opinion. It is for you to decide. The cars we drive, factories, and many products we use in our homes emit toxic pollutants into the ambient air. The risk of cancer in the general population is 250,000 in a million (1 in 4 chances). The risk generated by [FACILITY] is [NUMBER] in a million [X in Y chances].

What are [FACILITY] and the MDAQMD doing about this?

A letter is enclosed with this notice from [FACILITY] explaining what is being done to reduce risk from its facility. [IF APPLICABLE]

The State and the MDAQMD have already adopted some rules reducing emissions of toxic compounds into the ambient air. More rules will be adopted in the future as required by State law and Federal law (Title III of the 1990 Federal Clean Air Act Amendments).

How do I find out more?

There are several ways that you can obtain additional information.

If you have questions about anything in this notice, or want to find out more about the MDAQMD's air toxic program, please call Mr. Richard Wales at (619) 245-1661 ext. 1803.

If you wish to find out more about the [FACILITY'S] toxic emissions contact [FACILITY]. The [FACILITY] contact person and telephone number are in the enclosed letter from the [FACILITY].

In addition, a community meeting to discuss the HRA will be held, if a sufficient number of survey cards, which are enclosed in this mailing, requesting such a meeting are returned to the MDAQMD. If you would like to attend such a meeting, please return your survey card to the MDAQMD postmarked on or before [DATE].

Sincerely,

Christopher A. Collins
Supervising Air Quality Engineer
Mojave Desert AQMD

ATTACHMENT 2

SAMPLE DISTRICT NOTIFICATION LETTER

FOR SIGNIFICANT NON-CANCEROUS (CHRONIC OR ACUTE) HEALTH RISK

[DATE]

Dear Neighbors:

As required by state law, [FACILITY] prepared a Health Risk Assessment (HRA) based upon their [YEAR] Toxic Emission Inventory Report (TEIR). This HRA shows that you may have been or are being exposed to toxic air contaminants. Since [YEAR], [FACILITY] has taken steps to reduce their release of toxic air contaminants. Therefore, your exposure to toxic air contaminants has been reduced. These reductions are detailed in the accompanying letter from [FACILITY].

Why are you telling me this?

State law requires [FACILITY] to notify you of this exposure. Approximately [NUMBER] homes and business are receiving this notice.

Who is [FACILITY] and what do they do?

[FACILITY] [PRODUCES PRODUCTS]. It is located at [ADDRESS]. A map is enclosed showing the location of [FACILITY]. [FACILITY] emits [EMITTED COMPOUNDS] into the ambient air to [PRODUCE PRODUCTS].

What are the health effects of these emissions to the ambient air?

State law requires [FACILITY] to answer this question, so [FACILITY] has prepared a report called a HRA describing possible health effects. [FACILITY'S] air emissions include toxic compounds and exposure to them may increase your risk of contracting cancer.

The HRA uses a computer program to predict the increase in the risk of contracting cancer due to emissions from [FACILITY]. The HRA has been reviewed by State health experts and the Mojave Desert Air Quality Management District (MDAQMD).

What are the potential adverse health effects from [FACILITY'S] toxic emissions?

The HRA predicts emissions from [FACILITY] may exceed the reference exposure level by a factor of [NUMBER]. The State and MDAQMD require that some cautious assumptions be used in the computer program to insure potential adverse health effects are not underestimated.

Your actual risk due to these emissions may be less, and may even be as low as zero because the number calculated is for a person living 24 hours a day for 70 years at the point where the impacts of these emissions are the greatest. Real populations do not receive this much exposure to the emissions and thus, have lower risks.

You may review the HRA at [LOCAL LOCATION] or at the offices of the MDAQMD (15428 Civic Drive, Suite 200, Victorville) by making arrangements with Mr. Richard Wales at (619) 245-1661 ext. 1803.

The estimate produced by the HRA only considers current exposure from [FACILITY] for the year [19xx]. This HRA does not include exposures, past or present, due to other toxic air pollutants released by other facilities. This HRA does not consider modifications made to [FACILITY] since [19xx]. These modifications could either decrease or increase the "significant health risk".

Is this a high risk?

The amount of risk is a matter of opinion. It is for you to decide. The cars we drive, factories, and many products we use in our homes emit toxic pollutants into the ambient air. Some persons may find they are more sensitive to a pollutant than other persons, and therefore, they may experience different adverse health effects.

What are [FACILITY] and the MDAQMD doing about this?

A letter is enclosed with this notice from [FACILITY] explaining what is being done to reduce risk from its facility. [IF APPLICABLE]

The State and the MDAQMD have already adopted some rules reducing emissions of toxic compounds into the ambient air. More rules will be adopted in the future as required by State law and Federal law (Title III of the 1990 Federal Clean Air Act Amendments).

How do I find out more?

There are several ways that you can obtain additional information.

If you have questions about anything in this notice or want to find out more about the MDAQMD's air toxic program, please call Mr. Richard Wales at (619) 245-1661 ext. 1803.

If you want to find out more about the [FACILITY'S] toxic emissions contact [FACILITY]. The [FACILITY] contact person and the telephone number are in the enclosed letter from the [FACILITY].

In addition, a community meeting to discuss the HRA will be held, if a sufficient number of survey cards,, which are enclosed in this mailing, requesting such a meeting, are returned to the MDAQMD. If you would like to attend such a meeting please return your survey card to the MDAQMD postmarked on or before [DATE].

Sincerely,

Christopher A. Collins
Supervising Air Quality Engineer
Mojave Desert AQMD