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(Amended March 1, 2019)

**PROPOSED AMENDED RULE 212. STANDARDS FOR APPROVING
PERMITS AND ISSUING PUBLIC NOTICE**

- (a) The Executive Officer shall deny a Permit to Construct or a Permit to Operate, except as provided in Rule 204, unless the applicant shows that the equipment, the use of which may cause the issuance of air contaminants or the use of which may eliminate, reduce, or control the issuance of air contaminants, is so designed, controlled, or equipped with such air pollution control equipment that it may be expected to operate without emitting air contaminants in violation of provisions of Division 26 of the State Health and Safety Code or of these rules.
- (b) If the Executive Officer finds that the equipment has not been constructed in accordance with the permit and provides less effective air pollution control than the equipment specified in the Permit to Construct, he shall deny the Permit to Operate.
- (c) Prior to granting a Permit to Construct or permit modification for a project requiring notification, all addresses within the area described in subdivision (d) of this rule shall be notified of the Executive Officer's intent to grant a Permit to Construct or permit modification at least 30 days prior to the date action is to be taken on the application. For the purpose of this rule, a project requiring notification is:
 - (1) any new or modified permit unit, source under Regulation XX, or equipment under Regulation XXX that may emit air contaminants located within 1000 feet from the outer boundary of a school. This subdivision shall not apply to a modification of an existing facility if the Executive Officer determines that the modification will result in a reduction of emissions of air contaminants from the facility and no increase in health risk at any receptor location. (This paragraph shall not apply to modifications that have no potential to affect emissions.); or,
 - (2) any new or modified facility which has on-site emission increases exceeding any of the daily maximums specified in subdivision (g) of this rule; or

- (3) any new or modified permit unit, source under Regulation XX, or equipment under Regulation XXX with increases in emissions of toxic air contaminants, for which the Executive Officer has made a determination that a person may be exposed to:
 - (A) a maximum individual cancer risk greater than, or equal to:
 - (i) one in a million (1×10^{-6}), per guidelines published by the Executive Officer under Rule 1401 (e), for facilities with more than one permitted unit, source under Regulation XX, or equipment under Regulation XXX, unless the applicant demonstrates to the satisfaction of the Executive Officer that the total facility-wide maximum individual cancer risk is below ten in a million (10×10^{-6}) using the risk assessment procedures and toxic air contaminants specified under Rule 1402; or,
 - (ii) ten in a million (10×10^{-6}), per guidelines published by the Executive Officer under Rule 1401 (e), for facilities with a single permitted unit, source under Regulation XX, or equipment under Regulation XXX; or
 - (B) quantities or concentrations of other substances that pose a potential risk of nuisance.

Unless otherwise stated, toxic and potentially toxic air contaminants are substances listed in Table I of Rule 1401 and their cancer risk shall be evaluated using Rule 1401 risk assessment procedures. Toxic air contaminants may also include other substances determined by the Executive Officer to be potentially toxic. Paragraph (c)(2) of this rule shall not apply if the Executive Officer determines that modifications to the existing facility will not result in an increase in health risk at any receptor location.

- (d) Except as provided for in subdivision (g) of this rule, the notification of the proposed construction of a project specified under subdivision (c) of this rule, which is to be prepared by the District, is to contain sufficient detail to fully describe the project. The applicant shall provide verification to the Executive Officer that public notice has been distributed as required by this subdivision. In the case of notifications performed under paragraphs (c)(2) and (c)(3) of this rule, the applicant for the Permit to Construct or permit modification shall be responsible for the

distribution of the public notice to each address within a 1/4 mile radius of the project or such other area as determined appropriate by the Executive Officer. In the case of notifications performed under paragraph (c)(1) of this rule, distribution of the public notice shall be to the parents or legal guardians of children in any school within 1/4 mile of the facility and the applicant shall provide distribution of the public notice to each address within a radius of 1000 feet from the outer property line of the proposed new or modified facility.

- (e) Any person may file a written request for notice of any decision or action pertaining to the issuance of a Permit to Construct. The Executive Officer shall provide ~~mailed~~ notice by mail, electronic mail, or other electronic means, of such decision or action to any person who has filed a written request for notification. Requests for notice shall be filed pursuant to procedures established by the Executive Officer. The notice shall be sent by mail, electronic mail, or other electronic means, ~~mailed~~ at the time that the Executive Officer notifies the permit applicant of the decision or action. The period to appeal, as specified in subdivision (b) of Rule 216, shall commence on the third day following mailing or electronic transmission of the notice pursuant to this subdivision. The requirements for public notice pursuant to this subdivision are fulfilled if the Executive Officer makes a good faith effort to follow procedures established pursuant to this subdivision for giving notice and, in such circumstances, failure of any person to receive the notice shall not affect the validity of any permit subsequently issued by the Executive Officer.
- (f) An application for a Permit to Operate, for a permit unit installed or constructed without a required Permit to Construct, shall be subject to the requirements of this rule.
- (g) For new or modified sources subject to Regulation XIII, RECLAIM facilities, or Outer Continental Shelf (OCS) facilities located within 25 miles of the State's seaward boundary and for which the District has been designated as the corresponding onshore area (COA), which undergo construction or modifications resulting in an emissions increase exceeding any of the daily maximums specified as follows:

<u>Air Contaminant</u>	<u>Daily Maximum</u> <u>in lbs per Day</u>
Volatile Organic Compounds	30
Nitrogen Oxides	40
PM ₁₀	30
Sulfur Dioxide	60
Carbon Monoxide	220
Lead	3

The process for public notification and comment shall include all of the applicable provisions of 40 Code of Federal Regulations (CFR) Part 51, Section 51.161(b), and 40 CFR Part 124, Section 124.10. The federal public notice and comment procedures for these facilities require that the public notice be distributed to the broadest possible scope of interested parties, and include at a minimum:

- (1) Availability of information submitted by the owner or operator and of District analyses of the effect on air quality for public inspection in at least one location in the area affected. This requirement may be met by making these materials available at a physical location or on the District public website;
- (2) Posting of the notice on the District public website for the duration of the public comment period. Each posting shall include: the public notice, the draft permit, and information on how to access the administrative record for the draft permit. The public notice or a link to the public notice will be placed on a web page that is dedicated to listing all public notices under this provision;~~Notice by prominent advertisement in the area affected of the location of the source information and the District's analyses of the effect on air quality~~
- (3) Mailing a copy of the notice required in paragraph (g)(2) of this rule to the following persons: The applicant, the Administrator of U.S. EPA through Region 9, the Air Resources Board, affected local air pollution control districts, the chief executives of the city and county or the onshore area that is geographically closest to where the major stationary source or major modification would be located, any comprehensive regional land use planning agency, and State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the regulated activity; and,

- (4) A 30-day period for submittal of public comments.
- (h) The Executive Officer may combine public notices to avoid duplication provided that all required public notice requirements are satisfied.