

(Adopted November 4, 2005)(Amended June 5, 2015)(Amended March 3, 2023)

**RULE 1401.1 REQUIREMENTS FOR NEW AND RELOCATED FACILITIES
NEAR SCHOOLS**

(a) Purpose

The purpose of this rule is to provide additional health protection to children at Schools or Schools Under Construction from New Facilities or Relocated Facilities emitting toxic air contaminants.

(b) Applicability

This rule applies to New Facilities and Relocated Facilities, but not to Existing Facilities. Applications for Permit to Construct/Operate from such New Facilities or Relocated Facilities shall be evaluated under this rule's provisions, the list of toxic air contaminants in Rule 1401, and the risk assessment procedures that are in effect at the time the application is deemed complete.

(c) Definitions

(1) **CANCER RISK** means, for the purpose of this rule, the estimated probability of an exposed individual contracting cancer as a result of exposure to toxic air contaminants at a School or a School Under Construction calculated pursuant to Rule 1401(d).

(2) **CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICE (CEQA NOTICE)** means, for the purpose of this rule, a Notice of Preparation of project level Environmental Impact Report was sent to the appropriate agencies pursuant to Section 15082 of the CEQA Guidelines or a Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration was provided to the parties pursuant to Section 15072 pursuant to the CEQA Guidelines.

(3) **EXISTING FACILITY** means any Facility that:

(A) demonstrates to the satisfaction of the Executive Officer that it had equipment requiring a Permit to Construct/Operate that was in operation prior to November 4, 2005 or

(B) has an application for Permit to Construct/Operate that is deemed complete prior to February 2, 2006.

(4) **FACILITY** means any Permit Unit or grouping of Permit Units or other

air contaminant-emitting activities which are located on one or more contiguous properties within the District, in actual physical contact or separated solely by a public roadway or other public right-of-way, and are owned or operated by the same person (or by persons under common control), or an outer continental shelf (OCS) source as determined in 40 CFR Section 55.2. Such above-described groupings, if noncontiguous, but connected only by land carrying a pipeline, shall not be considered one facility. Notwithstanding the above, sources or installations involved in crude oil and gas production in Southern California Coastal or OCS Waters and transport of such crude oil and gas in Southern California Coastal or OCS Waters shall be included in the same facility which is under the same ownership or use entitlement as the crude oil and gas production facility on-shore.

- (c) (5) FACILITY-WIDE ACUTE HAZARD INDEX (HI) means the sum of the calculated Individual Substance Acute Hazard Indices for the target organ due to all toxic air contaminants emitted from all equipment requiring a written permit to operate at the Facility.
- (6) FACILITY-WIDE CANCER RISK means the sum of the calculated Cancer Risk values for all toxic air contaminants emitted from all equipment requiring a written permit to operate at the Facility.
- (7) FACILITY-WIDE CHRONIC HAZARD INDEX (HI) means the sum of the calculated Individual Substance Chronic Hazard Indices for the target organ due to all toxic air contaminants emitted from all equipment requiring a written permit to operate at the Facility.
- (8) INDIVIDUAL SUBSTANCE ACUTE HAZARD INDEX (HI) means the ratio of the estimated maximum one-hour concentration of a toxic air contaminant for a potential maximally exposed individual at the School to its acute reference exposure level.
- (9) INDIVIDUAL SUBSTANCE CHRONIC HAZARD INDEX (HI) means the ratio of the estimated long-term level of exposure to a toxic air contaminant for a potential maximally exposed individual at the School to its chronic reference exposure level. The chronic hazard index calculations shall include multipathway consideration, if applicable.
- (10) MODIFICATION means any physical change in, change in method of operation, or addition to an existing Permit Unit that requires an application for a Permit to Construct/Operate. Routine maintenance

and/or repair shall not be considered a physical change. A change in the method of operation of equipment, unless previously limited by an enforceable permit condition, shall not include:

- (c) (10) (A) an increase in the production rate, unless such increase will cause the maximum design capacity of the equipment to be exceeded; or
- (B) an increase in the hours of operation; or
- (C) a change in ownership of a source; or
- (D) a change in formulation of the materials processed which will not result in a net increase of the MICR, cancer burden, or chronic or acute HI from the associated permit unit.

For Facilities that have been issued a Facility permit pursuant to Regulation XX or a Title V permit pursuant to Regulation XXX, modification means any physical change in, change in method of operation of, or addition to an existing individual article, machine, equipment or other contrivance which would have required an application for a permit to construct and/or operate, were the unit not covered under a Facility permit or Title V permit.

- (11) NEW FACILITY means a Facility or an operation that is not an Existing Facility or Relocated Facility.
- (12) PERMIT UNIT means any article, machine, equipment, or other contrivance, or combination thereof, which may cause or control the issuance of air contaminants, and which requires a written permit pursuant to Rules 201 and/or 203. For facilities that have been issued a Facility permit or Title V permit, a permit unit for the purpose of this rule means any individual article, machine, equipment or other contrivance which may cause or control the issuance of air contaminants and which would require a written permit pursuant to Rules 201 and/or 203 if it were not covered under a Facility permit or Title V permit. For publicly-owned sewage treatment operations, each process within multi-process permit units at the Facility shall be considered a separate permit unit for purposes of this rule.
- (13) RELOCATED FACILITY means the removal of all existing permitted equipment, remaining under the same ownership, from one parcel of land and installation of the same equipment or functionally identical replacement of the equipment at another parcel of land where the two parcels are not in actual physical contact and are not separated solely by

a public roadway or other public right-of-way.

- (c) (14) SCHOOL means any public or private school, including juvenile detention facilities with classrooms, used for the education of more than 12 children at the school in kindergarten through grade 12. School also means an Early Learning and Developmental Program by the U.S. Department of Education or any state or local early learning and development programs such as pre-schools, Early Head Start, Head Start, First Five, and Child Developmental Centers. A School does not include any private school in which education is primarily conducted in private homes. The term includes any building or structure, playground, athletic field, or other area of school property.

- (15) SCHOOL UNDER CONSTRUCTION means any property that meets any of the following conditions and the Executive Officer has been notified:

- (A) construction of a School has commenced; or
- (B) of a CEQA Notice for the construction of a School; or
- (C) a School has been identified in an approved local government specific plan.

A School Under Construction is effective upon the date in which any one of the activities specified in either subparagraph (c)(15)(A), (c)(15)(B), or (c)(15)(C) occurs or the date the Executive Officer has received notification of the activities, whichever is later.

- (d) Risk Requirements for New Facilities

The Executive Officer shall deny a Permit to Construct/Operate at a New Facility for any Permit Unit that emits any toxic air contaminant listed in Table I of Rule 1401 unless the applicant has substantiated to the satisfaction of the Executive Officer that all of the following requirements, as applicable, have been achieved. For the purpose of this rule, the Cancer Risk and hazard indices shall be calculated pursuant to Rule 1401 and the applicable risk assessment procedures. Requirements for new facilities are summarized in Table 1 – Summary of Requirements for New Facilities.

- (1) A New Facility with a toxic-emitting source that is within 500 feet from the outer boundary of a School or School Under Construction shall comply with all of the following requirements:

- (A) Cancer Risk

The Facility-Wide Cancer Risk shall not exceed one in one million (1×10^{-6}) at any School or School Under Construction within 500 feet of the toxic-emitting Permit Unit(s) at the Facility; and

- (d) (1) (B) Chronic Hazard Index
The Facility-Wide Chronic HI for any target organ system shall not exceed 1.0 at any School or School Under Construction within 500 feet of the toxic-emitting Permit Unit (s) at the Facility; and
 - (C) Acute Hazard Index
The Facility-Wide Acute HI for any target organ system shall not exceed 1.0 at any School or School Under Construction within 500 feet of the toxic-emitting Permit Unit(s) at the Facility.
 - (2) For a New Facility where the closest outer boundary of a School or School Under Construction is between 500 to 1,000 feet from the toxic-emitting Permit Unit(s) and there is no residential or sensitive receptor within 150 feet of the proposed toxic-emitting Permit Unit(s), the Facility shall not exceed the risk levels specified in subparagraphs (d)(1)(A), (d)(1)(B), and (d)(1)(C) at any School or School Under Construction within 1,000 feet of the toxic-emitting Permit Unit(s) at the Facility.
- (e) Risk Requirements for Relocated Facilities
- The Executive Officer shall deny a Permit to Construct/Operate at a Relocated Facility for any Permit Unit that emits any toxic air contaminant listed in Table I of Rule 1401 unless the applicant has substantiated to the satisfaction of the Executive Officer that all of the following requirements, as applicable, have been achieved. For the purpose of this rule, the Cancer Risk and hazard indices shall be calculated pursuant to Rule 1401 and the applicable risk assessment procedures. Requirements for Relocated Facilities are summarized in Table 2 – Summary of Requirements for Relocated Facilities. For each School or School Under Construction whose outer boundary is within 500 feet of the toxic-emitting Permit Unit (s) at a Relocated Facility, the Relocated Facility shall demonstrate that either:
- (1) The Facility-Wide Cancer Risk and hazard indices at each School or School Under Construction do not exceed the risk values at the same School or School Under Construction when the Facility was at its previous location; or
 - (2) The Facility-Wide Cancer Risk at the School or School Under

Construction does not exceed 1 in one million and the Facility-Wide Chronic and Acute Hazard indices for any target organ system do not exceed 1.0.

(f) Risk Calculations for New and Relocated Facilities

- (1) The owner or operator of a New Facility complying with the requirements specified under paragraphs (d)(1) or (d)(2), or the owner or operator of a Relocated Facility complying with the requirements specified under paragraphs (e)(1) or (e)(2), shall calculate the risk for any School or School Under Construction at the time of a CEQA Notice for the New or Relocated Facility or, if there is no CEQA Notice for the New or Relocated Facility, at the time the first permit application is deemed complete.
- (2) If the owner or operator of a New or Relocated Facility subject to (f)(1) does not commence construction within three years of the CEQA Notice for the New or Relocated Facility, the owner or operator shall calculate the risk for any School or School Under Construction at the time the application for Permit to Construct/Operate is deemed complete, unless the owner or operator has submitted written verification to the Executive Officer that the CEQA Notice is still applicable for the New or Relocated Facility.

(g) Requirements for New or Relocated Facilities for Additional Information in Rule 212 Notices

When public notice is required by subparagraph (c)(1) of Rule 212, any New or Relocated Facility with toxic-emitting Permit Unit(s) within 1,000 feet of the outer boundary of a School that has a Facility-Wide Cancer Risk exceeding one in one million at any such School shall include in the notice the Facility-Wide Cancer Risk at that School in addition to the information required pursuant to Rule 212 – Standards for Approving Permits and Issuing Public Notice.

(h) Requirements for New or Relocated Facilities for New Equipment, Modification, Alteration, and Change of Condition

For any subsequent application for new equipment or Modification, alteration, and change of conditions of a permit to operate, regardless of whether it remains under the same ownership, any New or Relocated Facility subject to Rule 1401.1 shall:

- (h)
 - (1) meet the requirements of subdivisions (d), (e), (f), and (g), as applicable; and
 - (2) be required to calculate cancer and non-cancer risk or add risk values for Rule 212 notices for any School specified in subdivisions (d), (e), (f), and (g), whichever is applicable.

- (i) Exemptions
 - (1) The following equipment is exempt from inclusion in the Facility-Wide Cancer Risk, Facility-Wide Acute Hazard Index, and Facility-Wide Chronic Hazard Index for this rule.
 - (A) Emergency internal combustion engines that are exempted from modeling and offset requirements under Rule 1304.
 - (B) Engines subject to Rule 1470 – Requirements for Stationary Diesel-Fueled Internal Combustion Engines and Other Compression Ignition Engines.
 - (C) Equipment permitted solely for in-situ remediation of contaminated soil and/or groundwater.
 - (D) Equipment permitted for use at various locations throughout the District and that does not remain at one site for more than 12 consecutive months.
 - (E) Experimental research operations permitted under Rule 441 – Research Operations operating for one year or less.
 - (F) Equipment located at new or relocated facilities that are exempted from a written permit under Rule 219.
 - (2) If the Executive Officer has been notified and can confirm that a School will not be constructed at a specific location, that property is no longer considered a School Under Construction pursuant to paragraph (c)(15).

Table 1 – Summary of Requirements for New Facilities

Distance from New Facility to Nearest School or School Under Construction	Other Residential or Sensitive Receptor at < 150 ft	*Risk Demonstration at School at < 500 ft	*Risk Demonstration at School at 500 – 1,000 ft	Rule 212 Additional Information	Meet Requirements for Future Applications
		Paragraph (d)(1)	Paragraph (d)(2)	Subdivision (g)	Subdivision (h)
< 500 feet	N/A	Yes	N/A	N/A	Yes
500 – 1,000 ft	Yes	N/A	N/A	Yes	Yes
500 – 1,000 ft	No	N/A	Yes	N/A	Yes

*Risk Demonstration at School or School Under Construction for New Facility:
 ≤ 1 in one million Cancer Risk and hazard indices ≤ 1.0

Table 2 – Summary of Requirements for Relocated Facilities

Distance from Relocated Facility to Nearest School or School Under Construction	*Risk Demonstration at School at < 500 ft	Rule 212 Additional Information	Meet Requirements for Future Applications
	Subdivision (e)	Subdivision (g)	Subdivision (h)
< 500 feet	Yes	Yes	Yes
500 – 1,000 ft	N/A	Yes	Yes

*Risk Demonstration at School or School Under Construction for Relocated Facility:
 ≤ 1 in one million Cancer Risk and hazard indices ≤ 1.0
 or no increase in Cancer Risk or hazard indices