

**PROPOSED AMENDED 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 ~~s~~Schools or ~~s~~Schools ~~u~~Under ~~e~~Construction from ~~n~~New Facilities or ~~r~~Relocated ~~f~~Facilities emitting toxic air contaminants.

(b) Applicability

This rule applies to ~~n~~New Facilities and ~~r~~Relocated Facilities, but not to ~~e~~Existing ~~f~~Facilities. Applications for Permit to Construct/Operate from such ~~n~~New Facilities or ~~r~~Relocated ~~f~~Facilities shall be evaluated under this rule's provisions, ~~using~~ the list of toxic air contaminants in ~~the version of~~ 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 ~~s~~School or a ~~s~~School ~~u~~Under ~~e~~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 ~~f~~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 ~~p~~Permit ~~u~~Unit or grouping of ~~p~~Permit ~~u~~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.
- (5) FACILITY-WIDE ACUTE HAZARD INDEX (HI) means the sum of the calculated ~~i~~Individual ~~s~~Substance ~~a~~Acute ~~h~~Hazard ~~i~~Indices for the target organ due to all toxic air contaminants emitted from all equipment requiring a written permit to operate at the ~~f~~Facility.
- (6) FACILITY-WIDE CANCER RISK means the sum of the calculated ~~e~~Cancer ~~r~~Risk values for all toxic air contaminants emitted from all equipment requiring a written permit to operate at the ~~f~~Facility.
- (7) FACILITY-WIDE CHRONIC HAZARD INDEX (HI) means the sum of the calculated ~~i~~Individual ~~s~~Substance ~~e~~Chronic ~~h~~Hazard ~~i~~Indices for the target organ due to all toxic air contaminants emitted from all equipment requiring a written permit to operate at the ~~f~~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 ~~s~~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 ~~s~~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 ~~p~~Permit ~~u~~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:
- (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 ~~f~~Facilities that have been issued a ~~f~~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 ~~f~~Facility permit or Title V permit.

- (11) **NEW FACILITY** means a ~~f~~Facility or an operation that is not an ~~e~~Existing ~~F~~Facility or ~~r~~Relocated ~~f~~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 ~~f~~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 ~~f~~Facility permit or Title V permit. For publicly-owned sewage treatment operations, each process within multi-process permit units at the ~~f~~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.

(14) SCHOOL means any public or private school, including juvenile detention facilities with classrooms, used for ~~purposes of~~ the education of more than 12 children at the school, ~~including in kindergarten through and grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.~~ 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, ~~but does not include unimproved 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 sSchool has commenced; or
- (B) of a CEQA Notice for the construction of a sSchool; or
- (C) a sSchool has been identified in an approved local government specific plan.

A sSchool ~~u~~Under eConstruction 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 ~~n~~New ~~f~~Facility for any ~~p~~Permit ~~u~~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 ~~e~~Cancer ~~r~~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 ~~n~~New ~~f~~Facility with a toxic-emitting source that is within 500 feet from the outer boundary of a ~~s~~School or ~~s~~School ~~u~~Under ~~e~~Construction shall comply with all of the following requirements:

(A) Cancer Risk

The ~~f~~Facility-~~w~~Wide ~~e~~Cancer ~~r~~Risk shall not exceed one in one million

(1×10^{-6}) at any ~~s~~School or ~~s~~School ~~u~~Under ~~e~~Construction within 500 feet of the toxic-emitting ~~p~~Permit ~~u~~Unit(s) at the ~~f~~Facility; and

(B) Chronic Hazard Index

The ~~f~~Facility-~~w~~Wide ~~e~~Chronic HI for any target organ system shall not exceed 1.0 at any ~~s~~School or ~~s~~School ~~u~~Under ~~e~~Construction within 500 feet of the toxic-emitting ~~p~~Permit ~~u~~Unit (s) at the ~~f~~Facility; and

(C) Acute Hazard Index

The ~~f~~Facility-~~w~~Wide ~~a~~Acute HI for any target organ system shall not exceed 1.0 at any ~~s~~School or ~~s~~School ~~u~~Under ~~e~~Construction within 500 feet of the toxic-emitting ~~p~~Permit ~~u~~Unit(s) at the ~~f~~Facility.

(2) For a ~~n~~New ~~f~~Facility where the closest outer boundary of a ~~s~~School or ~~s~~School ~~u~~Under ~~e~~Construction is between 500 to 1,000 feet from the toxic-emitting ~~p~~Permit ~~u~~Unit(s) and there is no residential or sensitive receptor within 150 feet of the proposed toxic-emitting ~~p~~Permit ~~u~~Unit(s), the ~~f~~Facility shall not exceed the risk levels specified in subparagraphs (d)(1)(A), (d)(1)(B), and (d)(1)(C) at any ~~s~~School or ~~s~~School ~~u~~Under ~~e~~Construction within 1,000 feet of the toxic-emitting ~~p~~Permit ~~u~~Unit(s) at the ~~f~~Facility.

(e) Risk Requirements for Relocated Facilities

The Executive Officer shall deny a Permit to Construct/Operate at a ~~r~~Relocated ~~f~~Facility for any ~~p~~Permit ~~u~~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 ~~e~~Cancer ~~r~~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 ~~s~~School that has a ~~f~~Facility-~~w~~Wide ~~e~~Cancer ~~r~~Risk exceeding one in one million at any such ~~S~~school shall include in the notice the ~~f~~Facility-~~w~~Wide ~~e~~Cancer ~~r~~Risk at that ~~s~~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 ~~m~~Modification, alteration, and change of conditions of a permit to operate, regardless of whether it remains under the same ownership, any ~~n~~New or ~~r~~Relocated ~~f~~Facility subject to Rule 1401.1 shall:

- (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 ~~s~~School specified in subdivisions (d), (e), (f), and (g), whichever is applicable.

(i) Exemptions

(1) The following equipment is exempt from inclusion in the ~~f~~Facility-~~w~~Wide ~~e~~Cancer ~~r~~Risk, ~~f~~Facility-~~w~~Wide ~~a~~Acute ~~h~~Hazard ~~i~~Index, and ~~f~~Facility-~~w~~Wide ~~e~~Chronic ~~h~~Hazard ~~i~~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 sSchool will not be constructed at a specific location, that property is no longer considered a sSchool under eConstruction 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 (f g)	Subdivision (g 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 sSchool or sSchool under eConstruction for New Facility:
 ≤ 1 in one million eCancer rRisk 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 (f g)	Subdivision (g h)
< 500 feet	Yes	Yes	Yes
500 – 1,000 ft	N/A	Yes	Yes

*Risk Demonstration at sSchool or sSchool under eConstruction for Relocated Facility:
 ≤ 1 in one million eCancer rRisk and hazard indices ≤ 1.0
 or no increase in eCancer rRisk or hazard indices