

Public Workshop



PROPOSED AMENDED RULE 1401.1 – REQUIREMENTS FOR NEW AND RELOCATED FACILITIES NEAR SCHOOLS

**Tuesday, December 13, 2022
1:00 PM**

REMOTE MEETING INFORMATION

Zoom Webinar Link:

<https://scaqmd.zoom.us/j/97576207293>

Webinar ID: 975 7620 7293

Dial-In: (669) 900-6833

Agenda

-
- Background
 - Overview of Rules 1401/1401.1
 - Proposed Amended Rule (PAR 1401.1)
 - Impacts of PAR 1401.1

South Coast AQMD

- Local air pollution control agency
 - Largest of the 35 local air agencies in CA and in the U.S.
 - 10,743 square miles
 - 17 million residents
- Responsibilities
 - Regulate air emissions from stationary sources
 - Permit and inspect 28,400 affected businesses
 - Develop and implement plans to meet State and Federal air quality standards
 - Administer over \$100 million of incentive funding annually



OVERVIEW OF RULE 1401 AND RULE 1401.1

Background

- A toxic air contaminant is an air pollutant which may:
 - cause or contribute to an increase in mortality or serious illness
 - pose a present or potential hazard to human health
- South Coast AQMD has a comprehensive regulatory program to address air toxics emissions
 - Regulation XIV – Toxics and Other Non-Criteria Pollutants



Rule 1401 and Rule 1401.1

- Rules 1401 and 1401.1 address new and modified sources of air toxics emissions through risk assessments
 - Rule 1401 - New Source Review of Toxic Air Contaminants is a permit unit based regulation addressing toxic air contaminants for new, modified, or relocated sources
 - Rule 1401.1 - Requirements for New and Relocated Facilities Near Schools is more health protective than Rule 1401 as it establishes more stringent facility-wide requirements near schools

South Coast Air Quality Management District



RISK ASSESSMENT PROCEDURES for Rules 1401, 1401.1 and 212

Version 8.1
September 1, 2017

Updated Risk Assessment Guidelines

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

Air Toxics Hot Spots Program

Risk Assessment Guidelines

Guidance Manual for
Preparation of Health Risk
Assessments

February 2015



Air, Community, and Environmental Research Branch
Office of Environmental Health Hazard Assessment
California Environmental Protection Agency

- California Office of Environmental Health Hazard Assessment (OEHHA) develops guidance for preparing health risk assessments for toxic air contaminants
 - Research indicates exposure to toxic air contaminants as a child have greater potential consequences than exposure as an adult
 - OEHHA updated the risk assessment methodology in 2015 to incorporate age sensitivity factors for sensitive receptors, including young children under 16 years of age
- South Coast AQMD regulations follow updated OEHHA guidelines for preparing health risk assessments

Rule 1401.1 – Definition of School

- Most South Coast AQMD toxic rules expanded the definition of schools to include children in early learning and development programs (includes pre-kindergarten centers), consistent with OEHHA guidance and include unimproved school property
- Existing Rule 1401.1 school definition does not capture young children before kindergarten and excludes unimproved school property that could be used by children or developed in the future

Existing Rule 1401.1 (c)(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 kindergarten and grades 1 to 12, inclusive, but 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.”

**PROPOSED AMENDED RULE
1401.1 (PAR 1401.1)**

PAR 1401.1 Applicability

- Rule 1401.1, subdivision (b) establishes that the rule does not apply to existing facilities and specifies which Rule 1401 toxic air contaminant list and risk assessment procedures shall be used for permit evaluations
- PAR 1401.1 includes a clarification that permit applications will be evaluated based on the Rule 1401.1 provisions in effect at the time the application is deemed complete

PAR 1401.1 (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 using the list of toxic air contaminants in the version of Rule 1401 and the risk assessment procedures and the Rule 1401.1 provisions that are in effect at the time the application is deemed complete.

PAR 1401.1 Definitions

- Amends existing Rule 1401.1 definition of School to
 - expand the scope to include early learning and development programs (e.g., pre-kindergarten centers)
 - remove the exclusion of unimproved school property
- Establishes consistency between Rule 1401.1 and most other air toxic rules

PAR 1401.1 (c)(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 Development 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.~~

PAR 1401.1 Tables 1 and 2

- Existing Rule contains two summary tables of requirements for new and relocated facilities
 - Both have incorrect references to rule provisions
- PAR 1401.1 corrects the two rule references in both tables

PAR 1401.1 Tables

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

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

IMPACTS OF PAR 1401.1

Background

- Under PAR 1401.1, school is expanded to include early learning and development programs
- New or relocated facilities must demonstrate that the cancer risk or hazard index are below certain thresholds
 - If a facility exceeds the threshold, it may limit its throughput, capacity, or hours of operation, or install additional controls
 - An entity that is looking to establish a new location may also select another location that is farther away from a school



Rule 1401.1 Applicable Facilities



Rule 1401.1 provisions apply to new or relocated facilities, but not to existing facilities

NEW FACILITY means a Facility or an operation that is not an Existing or Relocated Facility

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.

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.

Impact Assessment: Methodology



Early Learning and Development Programs

New or Relocated Facilities



Approximately 3,500 centers licensed by the California Department of Social Services

- Child Care Centers or Day Care Centers
- Infant Care Centers

Approximately 6,000 facilities that are considered new or relocated facilities under Rule 1401.1 submitted applications within the last five years

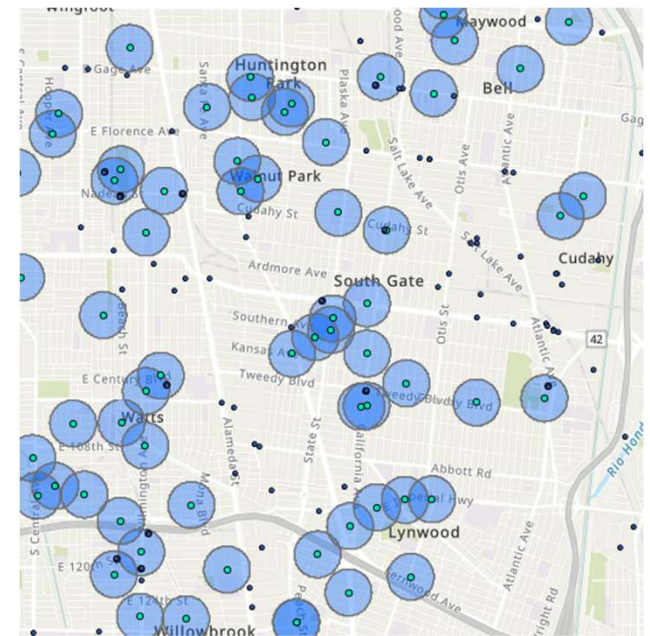
A spatial analysis was conducted to identify applicable facilities located within 1000 feet of early learning and developmental centers

¹ <https://www.ccl.dss.ca.gov/carefacilitysearch/DownloadData>

Impact Assessment: Results

- Preliminary analysis shows that on a yearly basis, about 140 facilities are located within 1000 feet of an early learning and development center
 - Subject to additional review and risk requirements in Rule 1401.1
- Considered a conservative assessment:
 - Other sensitive receptors, such as a high school, near facilities may have already triggered Rule 1401.1 analysis
 - Not all identified facilities emit air toxics

Map of South Coast AQMD Permitted Facilities (represented in black dots) and Proximity to Additional Centers (represented in green dots)



California Environmental Quality Act (CEQA)

- The South Coast AQMD, as lead agency, is reviewing the PAR 1401.1 project to determine if it will result in any potential adverse environmental impacts
- Appropriate CEQA documentation will be prepared based on the analysis

Socioeconomic Impact Assessment

- Health and Safety Code Sections 40440.8 and 40728.5
 - Requires socioeconomic impact assessment for proposed rule or rule amendment which “will significantly affect air quality or emissions limitations”
 - Socioeconomic impact assessment shall consider (to the extent data is available):
 1. Type of affected industries, including small businesses
 2. Impact on regional employment and economy
 3. Range of probable costs, including costs to industry or business
 4. Availability and cost-effectiveness of alternatives
 5. Emissions reduction potential
 6. Necessity of adopting, amending, or repealing the rule

Public Process



South Coast AQMD Contacts and Submittal of Comments

Proposed Amended Rule 1401.1

- Danielle Collado
Assistant Air Quality Specialist
909-396-2766
dcollado@aqmd.gov
- Michael Laybourn
Program Supervisor
909-396-3066
mlaybourn@aqmd.gov
- Kalam Cheung
Planning and Rules Manager
909-396-3281
kcheung@aqmd.gov
- Michael Krause
Assistant DEO
909-396-2706
mkrause@aqmd.gov

Submission of Comments or Documents

Written comments on PAR 1401.1 should be directed to Danielle Collado and submitted by **January 3, 2023**

- Danielle Collado
Assistant Air Quality Specialist (Rule Comments)
909-396-2766
dcollado@aqmd.gov
- Sina Taghvaei
Assistant Air Quality Specialist (CEQA)
909-396-2192
staghvaei@aqmd.gov
- Brian Vlasich
Air Quality Specialist (Socioeconomic)
909-396-2167
bvlasich@aqmd.gov