

DISTRICT DEPARTMENT OF THE ENVIRONMENT

NOTICE OF SECOND PROPOSED RULEMAKING

Control of Hazardous Air Pollutants (HAPs)

The Director of the District Department of the Environment, pursuant to the authority set forth in Sections 5 and 6(b) of the District of Columbia Air Pollution Control Act of 1984, effective March 15, 1985, as amended (D.C. Law 5-165; D.C. Official Code §§ 8-101.05 and 8-101.06(b) (2012 Repl.)); Section 107(4) of the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.07(4) (2012 Repl.)); the Human and Environmental Health Protection Act of 2010, effective March 31, 2011 (D.C. Law 18-336; D.C. Official Code §§ 8-108.01, *et seq.* (2012 Repl.)); Mayor's Order 98-44, dated April 10, 1998; Mayor's Order 2006-61, dated June 14, 2006; and Mayor's Order 2011-153, dated September 7, 2011, hereby gives notice of the intent to add Chapter 14 (Air Toxics and Hazardous Air Pollutants), to Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR), following a thirty (30) day public comment period. Further, these rules shall not become effective until approved by the Council of the District of Columbia, or forty-five (45) days after submission to the Council, not including Saturdays, Sundays, legal holidays, and days of Council recess, if the Council has not disapproved these rules.

Summary of the Proposed Rulemaking

On March 16, 2012, the Department proposed rules to adopt by reference ten (10) federal standards for hazardous air pollutants (HAP) for the following source categories: Perchloroethylene Dry Cleaning Facilities, Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, Halogenated Solvent Cleaning, Publicly Owned Treatment Works, Stationary Reciprocating Internal Combustion Engines, Hospital and Other Ethylene Oxide Sterilizers, Gasoline Dispensing Facilities, Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources, Area Source Plating and Polishing Operations, and the Printing and Publishing Industry, published at 59 DCR 2167 (March 16, 2012). The rules proposed to replace the previous National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements in 20 DCMR § 717 (where older versions of some of these regulations had previously been adopted by reference) and the District's own requirements for HAPs in other sections of 20 DCMR, Chapter 7. The rulemaking also included an eventual phase-out of perchloroethylene in dry cleaning operations, pursuant to the Human and Environmental Health Protection Act of 2010. *See* D.C. Official Code § 8-108.03 (2013 Supp.).

The Department is now re-proposing this rulemaking because the federal Environmental Protection Agency (EPA) has updated two of the federal rules for sources categories: Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, and Stationary Reciprocating Internal Combustion Engines (RICE). Therefore, the Department is updating the rulemaking to include the most current version of the federal rules. EPA amended the standards for Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks to lower the limits on allowable hexavalent chromium emissions by thirty percent (30%) to fifty percent (50%). *See* 77 Fed. Reg. 58220 (September 19, 2012). The Department is adopting the updated

standards in order to incorporate these changes. EPA amended the standards for RICE to expand the number of hours that emergency generators can participate in emergency demand response and peak shaving programs, allow fifty (50) hours of non-emergency operation for situations such as storm avoidance, update testing requirements for formaldehyde, and clarify certain provisions regarding rural use generators. *See* 78 Fed. Reg. 6674 (January 30, 2013). The Department is adopting the current RICE standards in order to incorporate the updated testing provisions and citations, and the allowance for fifty (50) hours of non-emergency operation; however, as in the original proposed rulemaking, the Department is not incorporating the provisions of the federal rule that allow emergency generators to participate in emergency demand response or peak shaving programs. Comments that were received on the standards for Stationary Reciprocating Internal Combustion Engines during the last comment period will be addressed in detail as a part of the comment period for the current rulemaking and do not need to be resubmitted. However, the Department is also planning to promulgate a more comprehensive regulation to address generator use in the District, and has determined that this is the more appropriate mechanism for addressing demand response participation (and its related effects on ozone) than the current rulemaking, which is only intended to address the emission of HAPs. For more information, please see the original proposed rulemaking at 59 DCR 2167 (March 16, 2012).

The Department is also proposing to adopt the federal area source and major source NESHAP for Industrial, Commercial, and Institutional Boilers, 40 C.F.R. part 63, Subpart JJJJJ (40 C.F.R. §§ 63.11193 – 11237 and Tables 1-8 of Subpart JJJJJ) and 40 C.F.R. part 63, subpart DDDDD (40 C.F.R. §§ 63.7480 – 63.7575, tables 1-10 to Subpart DDDDD, and Appendix A to Subpart DDDDD). The Department did not propose to adopt this NESHAP in the original proposed rule because it was under reconsideration by EPA. *See* 59 DCR 2167, 2168 (March 16, 2012). Amendments to the NESHAP took effect on February 17, 2013. *See* 78 Fed. Reg. 7488 (February 17, 2013). Hydrogen chloride emissions represent the predominant HAP emitted by industrial boilers, with lesser amounts of hydrogen fluoride and metals (arsenic, cadmium, chromium, mercury, manganese, nickel, and lead) also emitted. *See* 68 Fed. Reg. 1660, 1664 (January 13, 2003). Exposure to these HAPs is associated with a variety of adverse health effects, including chronic health disorders (*e.g.*, irritation of the lung, skin, and mucus membranes, effects on the central nervous system, and damage to the kidneys), and acute health disorders (*e.g.*, lung irritation and congestion, alimentary effects such as nausea and vomiting, and effects on the kidney and central nervous system). *Id.* Two of the HAPs have been classified as human carcinogens and three as probable human carcinogens. *Id.*

In addition, the Department is proposing to adopt all of the federal standards as amended. The Department will publish a Notice in the *D.C. Register* each year that there are amendments to the federal rules that it decides to incorporate. The Notice will state that the Department has reviewed the changes to the federal rule and that it plans to adopt these changes into Chapter 14. If the Department does not publish such a Notice, the amendments will not be incorporated and the most recent version of the rulemaking that was adopted will be enforceable.

Title 20 (Environment) of the DCMR, Chapter 14 is added to read as follows:

CHAPTER 14 AIR TOXICS AND HAZARDOUS AIR POLLUTANTS

- 1400 Emission Standards for Hazardous Air Pollutants for Source Categories**
- 1401 Perchloroethylene Air Emission Standards for Dry Cleaning Facilities**
- 1402 Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks**
- 1403 Emission Standards for Halogenated Solvent Cleaning**
- 1404 Emission Standards for the Printing and Publishing Industry**
- 1405 Emission Standards for Hazardous Air Pollutants for Publicly Owned Treatment Works**
- 1406 Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines**
- 1407 Emission Standards for Hospital and Other Ethylene Oxide Sterilizers**
- 1408 Emission Standards for Hazardous Air Pollutants for Gasoline Dispensing Facilities**
- 1409 Emission Standards for Hazardous Air Pollutants for Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources**
- 1410 Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers**
- 1411 Emission Standards for Hazardous Air Pollutants for Area Source Plating and Polishing Operations**

1400 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1400.1 The requirements of 40 C.F.R. part 63, subparts A, B, C, D, E, and appendix A (Test Methods) (40 C.F.R. §§ 63.1 – 63.99), as amended, together with the terms used and defined, are hereby adopted by reference for the purpose of implementing the National Emission Standards for Hazardous Air Pollutants (NESHAP) for source categories pursuant to the requirements of Section 112 of the Clean Air Act, 42 U.S.C. § 7412, except that the word “Administrator” as used in the C.F.R. sections shall be taken to mean “Director of the District Department of the Environment.”

1401 EMISSION STANDARDS FOR PERCHLOROETHYLENE AIR DRY CLEANING FACILITIES

1401.1 After January 1, 2014, no person shall install a machine designed to use perchloroethylene as a cleaning agent for clothes or other fabrics.

1401.2 After January 1, 2029, no person shall use perchloroethylene as a cleaning agent for clothes or other fabrics.

1401.3 Except as controlled by Subsections 1401.1 and 1401.2, the requirements of 40 C.F.R. part 63, subpart M (40 C.F.R. §§ 63.320 – 63.326), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the District Department of the Environment.”

1401.4 Any violation of any of the individual requirements of 40 C.F.R. part 63, subpart M, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1402 EMISSION STANDARDS FOR CHROMIUM EMISSIONS FROM HARD AND DECORATIVE CHROMIUM ELECTROPLATING AND CHROMIUM ANODIZING TANKS

1402.1 The requirements of 40 C.F.R. part 63, subpart N (40 C.F.R. §§ 63.340 – 63.348 and table 1 to subpart N of part 63), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the District Department of the Environment”.

1402.2 Any violation of any of the individual requirements of 40 C.F.R. part 63, subpart N, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1403 EMISSION STANDARDS FOR HALOGENATED SOLVENT CLEANING

1403.1 The requirements of 40 C.F.R. part 63, subpart T (40 C.F.R. §§ 63.460 – 63.471, appendix A to subpart T of part 63, and appendix B to subpart T of part 63), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the District Department of the Environment.”

1403.2 Any violation of any of the individual requirements of 40 C.F.R. part 63, subpart T, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1404 EMISSION STANDARDS FOR THE PRINTING AND PUBLISHING INDUSTRY

1404.1 The requirements of 40 C.F.R. part 63, subpart KK (40 C.F.R. §§ 63.820 – 63.839, table 1 to subpart KK of part 63, and appendix A to subpart KK of part 63), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the District Department of the Environment.”

1404.2 Any violation of any of the individual requirements of 40 C.F.R. part 63, subpart KK, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1405 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR PUBLICLY OWNED TREATMENT WORKS

1405.1 The requirements of 40 C.F.R. part 63, subpart VVV (40 C.F.R. §§ 63.1580 – 63.1595.), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the District Department of the Environment.”

1405.2 Any violation of any of the individual requirements of 40 C.F.R. part 63, subpart VVV, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1406 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR STATIONARY RECIPROCATING INTERNAL COMBUSTION ENGINES

1406.1 The requirements of 40 C.F.R. 63, subpart ZZZZ (40 C.F.R. §§ 63.6580 – 63.6635 and 63.6645 – 63.6675, tables 1a-1b, tables 2a-2d and, tables 3-8 to subpart ZZZZ of part 63), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the District Department of the Environment.” In addition, emergency stationary RICE shall not be permitted to participate in demand response or peak shaving programs pursuant to Subsection 1406.2.

1406.2 The requirements of 40 C.F.R. § 63.6640, as amended, together with the terms used and defined, are hereby adopted by reference, except that:

- (a) The following language shall not be adopted from 40 C.F.R. § 63.6640(f): “emergency demand response,”;

- (b) The language from 40 C.F.R. §§ 63.6640(f)(2)(ii) shall not be adopted;
- (c) The following language shall not be adopted from 40 C.F.R. § 63.6640(f)(3): “and emergency demand response”;
- (d) The following language from 63.6640(f)(4) shall not be adopted: “and emergency demand response” and “Except as provided in paragraphs 4(f)(i) and 4(f)(ii) of this section,” ;
- (e) The language from 40 C.F.R. §§ 63.6640(f)(4)(i)-(ii) shall not be adopted; and
- (f) The word “Administrator” as used in the C.F.R. sections shall be taken to mean “Director of the District Department of the Environment.”

1406.3 Any violation of any of the individual requirements of 40 C.F.R. 63, subpart ZZZZ or Subsections 1406.1 through 1406.2 of this chapter, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1407 EMISSION STANDARDS FOR HOSPITAL AND OTHER ETHYLENE OXIDE STERILIZERS

1407.1 The requirements of 40 C.F.R. part 63, subpart O (40 C.F.R. §§ 63.360 – 63.368), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the District Department of the Environment.”

1407.2 The requirements of 40 C.F.R. part 63, subpart WWWW (40 C.F.R. §§ 63.10382 – 63.10448, and table 1 to subpart WWWW of part 63), as in effect on July 1, 2011, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the District Department of the Environment”.

1407.3 Any violation of any of the individual requirements of 40 C.F.R. part 63, subparts O or WWWW, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1408 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR GASOLINE DISPENSING FACILITIES

1408.1 The requirements of 40 C.F.R. part 63, subpart CCCCC (40 C.F.R. §§ 63.11110 – 63.11132, tables 1-3 to subpart CCCCC of part 63), as amended, together with

the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the District Department of the Environment.”

1408.2 Any violation of any of the individual requirements of 40 C.F.R. part 63, subpart CCCCCC, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1409 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR PAINT STRIPPING AND MISCELLANEOUS SURFACE COATING OPERATIONS AT AREA SOURCES

1409.1 The requirements of 40 C.F.R. part 63, subpart HHHHHH (40 C.F.R. §§ 63.11169 – 63.11178, and table 1 to subpart HHHHHH of part 63), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the District Department of the Environment.”

1409.2 Any violation of any of the individual requirements of 40 C.F.R. part 63, subpart HHHHHH, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1410 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL BOILERS

1410.1 The requirements of 40 C.F.R. part 63, subpart JJJJJJ (40 C.F.R. §§ 63.11193 – 63.11237, and tables 1-8 to subpart JJJJJJ of part 63), as amended, and 40 C.F.R. part 63, subpart DDDDD (40 C.F.R. §§ 63.7480 – 63.7575, tables 1-10 to subpart DDDDD, and appendix A to subpart DDDDD), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the District Department of the Environment.”

1410.2 Any violation of any of the individual requirements of 40 C.F.R. part 63, subpart JJJJJJ and 40 C.F.R. part 63, subpart DDDDD, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1411 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR AREA SOURCE PLATING AND POLISHING OPERATIONS

- 1411.1 The requirements of 40 C.F.R. part 63, subpart WWWWWW (40 C.F.R. §§ 63.11504 – 63.11513, and table 1 to subpart WWWWWW of part 63), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the District Department of the Environment.”
- 1411.2 Any violation of any of the individual requirements of 40 C.F.R. part 63, subpart WWWWWW, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

Public Participation

The Director gives notice of the start of a thirty- (30) day public comment period for this proposed rulemaking, as required by D.C. Official Code § 8-411(a) (2013 Repl.). Comments on these proposed rules must be submitted, in writing, no later than thirty (30) days after the date of publication of this notice in the *D.C. Register* to Ms. Olivia Achuko, District Department of the Environment, Air Quality Division, 1200 First Street, NE, 5th Floor, Washington, D.C. 20002 or sent electronically to olivia.achuko@dc.gov. Ms. Achuko may also be contacted at (202) 535-2997. Comments received during the previous public comment period will be considered for this comment period and do not need to be resubmitted. Copies of the proposed rule are available for public review during normal business hours at the offices of the District Department of the Environment or on-line at <http://ddoe.dc.gov>.

The Department’s policy is that public comments, whether mailed, delivered, submitted electronically on computer disks or in paper, will be made available for public viewing on its website as the Department addresses them and without change, unless the comment contains copyrighted material, confidential business information, or other information whose disclosure is restricted by statute. When the Department identifies a comment containing copyrighted material, it will provide a reference to that material on the website. The copyrighted material will be available in hard copy to the public.