

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FINAL RULEMAKING**Amendments to Nuisance Odor Regulations**

The Director of the Department of Energy and Environment (“DOEE”), pursuant to the authority set forth in Sections 5 and 6 of the District of Columbia Air Pollution Control Act of 1984 (the “Air Pollution Control Act”), effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code §§ 8-101.05 and 8-101.06); 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)); and Mayor’s Order 2006-61, dated June 14, 2006, hereby gives notice of his adoption of the following amendments to Chapter 9 (Air Quality – Motor Vehicular Pollutants, Lead, Odors, and Nuisance Pollutants) of Title 20 (Environment) of the District of Columbia Municipal Regulations (“DCMR”).

Summary of Final Rulemaking

This rulemaking amends Chapter 9 of Title 20 of the DCMR to update regulatory language that currently hampers the ability of sources to implement controls for nuisance odors as expeditiously as practicable. The Air Pollution Control Act authorizes DOEE to “[a]dopt standards governing emission of nuisance air pollutants likely to injure public health or welfare or interfere with reasonable enjoyment of life and property.” D.C. Official Code § 8-101.05(b)(1)(F). Moreover, regulations adopted pursuant to the Act further prohibit sources from emitting odorous or other air pollutants likely to injure public health or interfere with the reasonable enjoyment of life or property. 20 DCMR § 903.

This rulemaking updates the regulations governing nuisance odors to allow sources to implement odor controls approved by DOEE in their Odor Control Plan (“OCP”) before obtaining a permit under 20 DCMR § 200, provided DOEE issues written approval of the controls in the OCP decision letter. DOEE’s OCP decision letter will, if applicable, include a finding that the modification is primarily for odor control and does not produce other air pollution. Further, the rulemaking requires that sources submit an application for a permit to operate pursuant to 20 DCMR § 200.2 to DOEE within sixty (60) days after DOEE issues an OCP decision letter.

This rulemaking further clarifies that any source installing controls or altering processes primarily intended to reduce odors, whether or not the source currently holds a permit, must obtain a permit to operate under 20 DCMR § 200.2, and establishes the process for granting facilities approval to begin installing and operating odor controls while their permit to operate is being issued or amended.

Prior History and Discussion of Public Comment

DOEE published a Notice of Proposed Rulemaking to adopt these amendments to DOEE’s Nuisance Odor Regulations in the *District of Columbia Register* for a thirty (30) day public notice and comment period on November 28, 2025, at 72 DCR 013215. The public comment period

ended December 29, 2025. The Department received no comments, and no changes have been made to the text of the rules as proposed.

The Director adopted this rule as final on April 2, 2026; the rule shall become effective upon publication of this notice in the *District of Columbia Register*.

Chapter 9, AIR QUALITY – MOTOR VEHICULAR POLLUTANTS, LEAD, ODORS, AND NUISANCE POLLUTANTS, of Title 20, ENVIRONMENT, of the DMCR is amended as follows:

Section 903, ODOROUS OR OTHER NUISANCE AIR POLLUTANTS, is amended by adding a new Subsection 903.14 to read as follows:

903.14 The Department may determine that the installation of odor control equipment or the change in a process identified in an OCP is not subject to the requirements of 20 DCMR § 200 to obtain a permit prior to installation and initial operation if:

- (a) The Department determines that the installation of control equipment or change in process:
 - (1) Is designed to reduce or control odors at the source;
 - (2) Will not result in any non-negligible change to the emission of any non-odorous air pollutants;
 - (3) Is not inimical to public health and welfare; and
 - (4) Will not prevent attainment, nor interfere with maintenance, of any applicable national ambient air quality standard; and
- (b) If not already submitted pursuant to § 903.9, the owner or operator of the source agrees to submit an application for a permit to operate, or to amend an existing permit to operate, the installed odor control equipment or change in a process pursuant to 20 DCMR § 200.2 no later than sixty (60) days after the Department's written determination under this subsection is issued.
- (c) A determination under this subsection shall be issued by the Department in writing.