

CAPCOA TITLE V ELECTRONIC NOTICING MODEL RULE

Prepared by EPA Region 9
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Revision to District Rule [XXX]

Requirements

The language in this section implements the requirements of 40 CFR 70.7(h)(1) and (2), as revised by 81 FR 71613 (October 18, 2016), for permitting authorities that select e-notice as the consistent noticing method for permits issued under part 70.

- Electronic Notice: The [APCO/Control Officer] shall provide notice of and opportunity to review the proposed decision to issue a permit to operate in accordance with the requirements in this section, for initial permits, renewal of permits, significant permit modifications, and reopenings for cause:
 - The [APCO/Control Officer] shall provide electronic notice (“e-notice”) by posting the notice prominently on the public notice section of the [District’s] public Web site, for the duration of the public comment period. This method shall be used for all draft permits subject to notice under this section.
 - The notice required by [section/paragraph #] shall provide the following information:
 - identification of the affected facility;
 - the name and address of the permittee;
 - the name and address of the [permitting authority] processing the permit;
 - the activity or activities involved in the permit action;
 - the emissions change involved in any permit modification;
 - the name, address, and telephone number of a person (or an email or Web site address) from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, and all other materials available to the permitting authority (except for publicly-available materials and publications) that are relevant to the permit decision;
 - a brief description of the comment procedures required by this part; and
 - the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled).
 - The [permitting authority] shall maintain a mailing list of persons who request to be notified of the permitting activity and shall distribute (*e.g.*, by email and/or postal service) the notice to those persons. The [permitting authority] shall include a link on its public Web site allowing interested persons to subscribe to the mailing list, and shall offer a sign-up sheet to subscribe to the mailing list at any public hearing on a draft permit. The [permitting authority] may update the mailing list from time to time by requesting written indication of continued interest from those listed. The [permitting authority] may delete from the list the name of any person who fails to respond to such a request within a reasonable timeframe.

- The [permitting authority] shall provide notice by other means if necessary to assure adequate notice to the affected public.
- Electronic Access: For each permit that the [permitting authority] has provided e-notice for on the [Agency's] Web site, the [permitting authority] shall post (or hyperlink to) the draft permit and key permit support documents on the [permitting authority's] Web site or on a publicly available online document management site for electronic access (“e-access”) for the duration of the public comment period. Permit support documents may include the permit application, statement of basis/engineering evaluation, fact sheet, preliminary determination, final determination, and response to comments. Some information may not be publicly available, *e.g.*, information entitled to confidential treatment pursuant to section 114(c) of the Clean Air Act or other information whose disclosure is restricted by federal law.

Additional Implementation Suggestions

This section is adapted from “Section F. Best Practices for E-Notice and E-Access” of 81 FR 71619 to reflect EPA Region 9’s recommendations for best practices for e-notice and e-access. These best practices are not required to satisfy e-notice and e-access provisions, but may be helpful in the course of providing communication to the public about permitting actions. The recommended best practices for e-notice and e-access include:

- Provide options for email notification that enable subscribers to tailor the types of notifications they receive (*e.g.*, a person may request notification of only draft permit notices for major source actions rather than receiving notice of all permitting activity by the permitting authority).
- Post the e-notice, draft permit, and key permit support documents prominently on the public notice section of the public Web site, for the duration of the public comment period and until the issuance of the final permit or until the permit application has been denied or withdrawn.
- Provide, where practicable, hyperlinks on the Web site that refers users to e-notice postings and/or newspaper postings, access to draft permit Web postings and postings of other permitting actions.
- Post the final permit on the Web site after the issuance of the permit for the duration of the validity of the permit.
- Provide evidence or a certification of the posting of the e-notice and draft permit to the Web site in the permit record indicating the date(s) of the availability of the notice and draft permit on the Web site pursuant to applicable permitting authority regulations or policies. Examples of certification of the posting of the e-notice include providing an electronic screenshot or printout of the applicable Web site pages, a “Memorandum to the File” by the permit writer documenting the date the e-notice was posted, and the Web site address where the e-notice was posted and the date through which the posting remained available.