

STAFF REPORT

BOARD MEETING DATE: June 9, 2025

CATEGORY: Regular Calendar 1

SUBJECT: Take the following actions: (1) Conduct a public hearing; and (2) adopt a resolution, effective July 1, 2025, which: (a) amends District Rule 2:11, Fees, implementing fee increases effective July 1, 2025, January 1, 2026, and January 1, 2027; (b) finds that the proposed resolution is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15273; and (c) find that based on District's written analysis prepared in accordance with California Health & Safety Code (HSC) Section 40727.2, the amendments to District Rule 2:11 meet the statutory requirements of Section 40727 of the HSC with respect to necessity, authority, clarity, consistency, non-duplication, and reference.

DEPARTMENT: Air Quality Management District

SUPERVISORIAL DISTRICT #: All

DEPARTMENT CONTACT: Rob Stahl, Air Quality District Manager (530) 225-5674

STAFF REPORT APPROVED BY: Sean Ewing, Director of Resource Management

<u>Vote Required?</u>	<u>General Fund Impact?</u>
Simple Majority Vote	General Fund Impact

RECOMMENDATION

Take the following actions: (1) Open a public hearing; (2) close the public hearing; and (3) adopt a resolution, effective July 1, 2025, which: (a) amends District Rule 2:11, Fees implementing fee increases effective July 1, 2025, January 1, 2026, and January 1, 2027; (b) finds that the proposed resolution is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15273; and (c) find that based on District's written analysis prepared in accordance with California Health & Safety Code (HSC) Section 40727.2, the amendments to District Rule 2:11 meet the statutory requirements of Section 40727 of the HSC with respect to necessity, authority, clarity, consistency, non-duplication, and reference.

DISCUSSION

The Shasta County Air Quality Management District (District) is the local government agency responsible for regulation of the air resources within Shasta County. The California Health & Safety Code (HSC) establishes the District's authority to adopt rules that limit discharges of pollution, the authority to issue conditional permits for the construction and operation of equipment, and the authority to collect fees for associated services. Fees cannot exceed full cost recovery of the District for issuing permits, performing inspections and audits, and the administrative enforcement, and adjudication thereof. District Rule 2:11 Fees (Fees) outlines how permit fees are to be determined and amounts to be collected. It should be noted that the District, prior to Fiscal Year 2024-25, had not receive funding from the Shasta County General Fund. A review of District fees has identified the following fee categories in which the collected fees do not meet the minimum amount required to perform the associated services.

The following specific District fees have been identified for review:

Rule 2:11 a.1. Device or Facility Authority to Construct Fee
Rule 2:11 a.2. Specific Permit Fees
Rule 2:11 a.2.q. Insignificant Source/Emission Inventory Tracking
Rule 2:11 a.3.e. Hourly Staff Rate
Rule 2:11 a.3.f. Emission Testing Schedule and Data Analysis
Rule 2:11 b.1. Air Quality Management District Burning Permits

District Fee increases are limited by HSC Section 41512.7 (b), “No district with an annual budget of one million dollars or more shall increase any existing fees for authority-to-construct operating permits or permits to operate by more than 15 percent in any calendar year.” The proposed fee and estimated cost recovery fee based on a recent time survey are discussed in each section to demonstrate the proposed fee increase in the current and future calendar year will not exceed full cost recovery.

Device or Facility: Authority to Construct Fee (2:11 a.1.)

The Device or Facility Authority to Construct fee section lists applicable fees for processing a standard application for an Authority to Construct (ATC) by District staff. This section was last amended in 1990 and indicates the fee is based on two hours of District staff time to process a standard application. At the time this rule was adopted, state and federal permitting requirements were significantly less stringent than current requirements. In 1990, the District hourly billing rate was established at \$37.50/hr. Based on an hourly billing rate of \$37.50 at two hours of staff time, the current \$75 permit filing fee was established.

A recent review of staff time required to process a standard ATC application indicates that there have been several evaluation requirements that have been mandated since the current fees were adopted in 1990. These requirements include: performing a screening health risk assessment for toxic air contaminants pursuant to District Rule 2:3, Toxics New Source Review for Complying with Federal Clean Air Act Section 112(g), cancer risk emission dispersion modeling using modeling software, and California Environmental Quality Act (CEQA) evaluation pursuant to District policy.

Based on a review of the staff time required to process an ATC, on average it takes 12.1 hours to process an ATC from initial intake to issuance of the Permit to Operate (PTO). Based on the proposed hourly rate of \$155.00, the Authority to Construct fee should be \$310, plus the actual hourly rate after the initial two hours. To assure the appropriate fees are collected, time accounting will be used to assess and collect additional time spent on ATC evaluations.

Rule 2:11 a.1 also lists the fee that is charged when permit holders apply to transfer permit ownership or complete a name change pursuant to Rule 2:21. The current fee is a non-refundable \$15. During the recent survey of time conducted by the District, this process takes typically on average 1.1 hours of staff time. Based on the proposed hourly rate, the transfer of ownership/name change fee should be increased to \$170.50.

Due to fee increase limitations contained in HSC Section 41512.7(b), the proposed Authority to Construct fee for calendar year 2025, would increase 15% from \$75 to \$86.25. The fee for constructing a source without first obtaining an ATC would increase 15% from \$150 to \$172.50. The proposed transfer fee would increase 15% from \$15 to \$17.25.

Specific Permit Fees (Rule 2:11 a.2.)

Before a Permit to Operate is issued or renewed as stated in Rule 2:1A.b., a non-refundable permit fee is required to be paid to the District. There are two District programs that have fees specified in this section of Rule 2:11, stationary sources and gasoline vapor recovery programs. A stationary source of air pollution is a fixed location that emits air pollutants into the atmosphere. These sources are required to obtain a District issued ATC and PTO, in order to comply with all applicable emission standards.

The gasoline vapor recovery program is a regulatory program by which vehicle fueling operations are regulated to reduce the escape of gasoline vapors into the atmosphere. Prior to 2015, the Environmental Health Division within the Department of Resource Management was responsible for this state mandated program. In 2015, Resource Management shifted the program to the Air Quality Management District.

Since taking over responsibility for the gasoline vapor recovery program, the District has invested considerable time and effort into developing a program that ensures fueling stations are compliant with state regulations. A recent review of fees charged for operation of this program revealed that the fee schedule has not been updated or reviewed since January 1993. District staff evaluated the current fee schedule under Rule 2:11 to assess the current fee and to determine what the current fee for service provided should be for this program.

An evaluation of the time and cost was completed by District staff for both the stationary source and vapor recovery programs. The total revenue for these programs primarily consists of annual permit fees paid by the permit holders for the various source categories. The total fees to be collected for Fiscal Year 2024-25, for both permitted source permits and the vapor recovery permits is expected to be \$205,000, which includes the fees that have already been collected and the invoices yet to be paid, but excludes the United

States Environmental Protection Agency Title V supplemental fee. Based on the review of the staff time required for the various tasks associated with the permitted sources, the total program cost would be \$319,000.

Due to fee increase limitations contained in HSC Section 41512.7(b), the proposed amendments to District Rule 2:11 a.2 for calendar year 2025, the source fees categories increase is proposed at 15%. Along with this proposed modification, District staff is recommending simplifying the vapor recovery throughput fees. Currently, there are different fees for aboveground and underground storage tanks for the annual throughput and the phase II nozzle fees. A majority of the storage tanks are underground, and the fees are less than the aboveground tanks. Increasing the underground tanks the maximum allowable amount of 15% would not cause a conflict with HSC Section 41512.7(b) for the aboveground tanks. District staff is also recommending adding several new throughput categories for larger gasoline dispensing facilities. As a result, the proposed amendments to District Rule 2:11 a.2.i reflecting a 15% increase and other modifications previously discussed are as follows:

- i) Gasoline Marketing (Retail/Wholesale; gallons per year)
 - 1) 50,000 gal/yr or fewer \$31.05
 - 2) >50,000 - ≤100,000 gal/yr \$62.10
 - 3) >100,000 - ≤500,000 gal/yr \$116.15
 - 4) >500,000 - ≤1,000,000 gal/yr \$135.70
 - 5) >1,000,000 - ≤1,500,000 gal/yr \$155.25
 - 6) >1,500,000 - ≤5,000,000 gal/yr \$174.80
 - 7) >5,000,000 - ≤10,000,000gal/yr \$194.35
 - 8) More than 10,000,000 gal/yr \$213.90
 - 9) Gasoline marketing facilities required to install Phase II Vapor Recovery controls at the dispenser shall be assessed an annual permit fee based upon the number of gasoline dispensing nozzles (per nozzle): \$20.70.

Insignificant Source/Emission Inventory Tracking (Rule 2:11 a.2.q.)

District rule 2:11 a.2.q, Insignificant Source/Emission Inventory Tracking is designated as a category where sources of emissions are considered insignificant and are issued an Authorization to Operate. However, emissions are required to be reported to the District for submission to California Air Resources Board (CARB).

A recent review of the annual staff time required to process the emission tracking fee for an Authorization to Operate is similar to a standard PTO. With the exception that the Authorization to Operate facilities are inspected once every four years.

With recent changes to the reporting requirements to CARB, the average time to process the emission inventory tracking is 2.9 hours. Based on this evaluation it is determined that the appropriate fee for the emission tracking would be \$449.50.

Due to fee increase limitations contained in HSC Section 41512.7(b), the Insignificant Source/Emission Inventory Tracking fee is proposed to increase 15% from \$20 to \$23.

Hourly Staff Rate (Rule 2:11 a.3.e.)

Based on the time survey conducted, hourly staff rates were calculated at \$155.00. Since this is not a permit fee pursuant to HSC Section 41512.7(b), this is not subject to the 15% maximum allowable annual permit fee increase. As such the proposed hourly staff rate is proposed to be increased from \$37.50/hour to \$155.00/hour. Each year during this time period, the district will perform evaluations to determine if hourly rate amendments are needed due to employer costs and adjustments to overhead calculations to meet District costs.

Emission Testing Schedule and Data Analysis (Rule 2:11 a.3.f.)

District Rule 2:11a.3.f contains a list of requests any person could make of District staff to perform. This section of the rule also contains a provision offering the option for a source to contract with the District for testing services. Due to significant changes in testing requirements, the District no longer has the capability to conduct emission testing and is proposing the removal of language.

Due to fee increase limitations contained in HSC Section 41512.7(b), the source testing observations and continuous monitoring compliance review fee are proposed to increase 15% from \$250 to \$287.50 and \$500 to \$575, respectively.

Air Quality Management District Burning Permits (Rule 2:11 b.1.)

The purpose of District Rule 2:11 b.1. Air Quality Management District Burning Permits is to ensure compliance with all applicable District burning regulations. With recent changes to the processing of the Fire Hazard Reduction burn permits, the time to process an average Fire Hazard Reduction burn permit has been streamlined. The estimated average time to process the burn permit is 0.17 hours. It is District policy that if a burn pile has been constructed utilizing heavy equipment, a burn pile inspection is required. The burn pile inspection could increase the time required for the burn permit by 1 or more hours. The district is proposing to increase the cost of all burn permits by \$5 and utilize the new hourly staff rate of \$155.00 for burn pile inspections.

Due to fee increase limitations contained in HSC Section 41512.7(b), the proposed fee increase to Fire Hazard Reduction burn permits of 10 acres or less by \$1.50 and all other burn permits by \$4.50.

Comparison of Sacramento Valley Air Basin Districts Fee Rules

A review of the stationary source fees within other air districts in the Sacramento Valley Air Basin, indicate significant variability in structure for stationary source fees. Tehama County Air Pollution Control District (APCD) is one air district within the air basin that has a similar fee structure to the District. In comparing the current fee structure, the APCD’s fees are approximately double that of the District’s fees.

Looking at the annual Consumer Price Index (CPI), published by the US Bureau of Labor Statistics from the time period when the District’s fees were last updated in 1990 through 2024, the annual CPI ranged from 0.10% to 8.00%, with one year being -0.10%. If the District had increased the stationary source fees located in Rule 2:11 annually by the CPI, the fees would have increased by 139.8%.

Increasing the stationary source fees the maximum allowable by HSC §41512.7(b), the fees would be increased to a level similar to APCD’s current fees by 2029, which is still lower than if the District had been increasing the fees annually with the CPI.

Administrative Modifications

The following administrative modifications were made to Rule 2:11

- Section f. Fees For California Air Resources Board (CARB) Atmospheric Acidity Protection Program was removed from Rule 2:11. This section was based on HSC Sections 39900-39911, and these sections were repealed from HSC effective January 1, 2013.
- Corrected citation in section g.4. Definitions for the definition of Nonattainment pollutant. Changed the citation from Health & Safety Code to California Code of Regulations.
- To clarify the definition in section H.3., deleted by subsection (e).
- Corrected citation in section h.4.a.3) to remove reference to sections 93301 through 93354 that have been repealed from HSC.
- Grammatical correction in section h.6.a) changed Sections to Section.

AFFECTED SOURCES

The entities affected by the proposed rule revisions are currently permitted stationary sources and retail gasoline facilities within Shasta County as well as individuals or companies submitting applications for Authority to Construct permits.

REQUIRED FINDINGS - CALIFORNIA HEALTH AND SAFETY CODE SECTION 40727

FINDING REQUIREMENT FINDING DETERMINATION

<u>Necessity:</u> The District must find that a need exists for the regulation, or for its amendment or repeal.	It is necessary for the District to amend Rule 2:11 in order to recover the costs for operating mandated programs [HSC Section 40727 (b)(1)]

Authority: The District must find that a provision of law or a state or federal regulation permits or requires the District to adopt, amend, or repeal the rule.	The District is authorized to adopt and amend Rule 2:11 by California Health and Safety Code; Sections 40001, 40702. [HSC Section 40727 (b)(2)]
Clarity: The Rule is written or displayed so that its meaning can be easily understood by the persons directly affected by it.	To date, there is no indication that the Rule is difficult to understand by persons directly affected by it. [HSC Section 40727 (b)(3)]
Consistency: The Rule is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations.	The District has found the proposed amended Rule is consistent with, and not in conflict with, or contrary to existing statutes, court decisions, or state or federal regulations. [HSC Section 40727 (b)(4)]
Non-duplication: The rule does not impose the same requirements as an existing state or federal regulation.	The District finds that these proposed regulation amendments are unique to District Rules and do not duplicate any state or federal permitting processes or authorities. [HSC Section 40727 (b)(5)]
Reference: Any statute, court decision, or other provision of law that the District implements, interprets, or makes specific by adopting, amending, or repealing the rule.	California Health and Safety Code; Sections 40001, 40702. [HSC Section 40727 (b)(6)]

This the proposed fee increases would be effective on July 1, 2025, and subsequent increases would go into effect on January 1, 2026, and January 1, 2027. During this time period, the District will perform annual evaluations to determine if future fee amendments are required to achieve full cost recovery.

ALTERNATIVES

The Board could choose to direct further modifications to Rule 2:11: Fees, which shall be considered no sooner than its next regular meeting pursuant to HSC 40726, 2) or decline to amend Rule 2:11: Fees, continue to operate the programs at a loss. This alternative would lead to the inability of the District to operate due to lack of funds unless jurisdictions with membership on the APCB are assessed on a per capita basis to subsidize these programs that are operating at a loss.

OTHER AGENCY INVOLVEMENT

This recommendation has been reviewed Auditor Controller however, no audits of the actual fees have been performed. Although the District asserts that fees are far lower than anticipated cost due to a 15% cap on increases, current calculations of the actual cost do not appear to be available. The Auditor Controller recommends that the District recalculate cost every one to two years, and anytime a fee is presented to the APCB for approval. These cost studies substantiate to the public and the APCB that the County is not charging more than actual cost. County Counsel has approved the resolution as to form. The recommendation has been reviewed by the County Administrative Office.

FISCAL IMPACT

The District is responsible for operating these State mandated programs and is allowed to recover the cost for operating the program. Since the District invoices monthly, for the first half of FY 2025-26 it is estimated that the increase in fees will raise permitting revenue by 15%, and 30% for the second half of FY 2025-26.

ATTACHMENTS:

- 1: Draft Resolution
- 2: July 2025 Redline Draft Rule with Fee Increase
- 3: Jan 2026 Redline Draft Rule with Fee Increase
- 4: Jan 2027 Redline Draft Rule with Fee Increase