

Lake County Air Quality Management District

STAFF REPORT

District Rules 208.2, 226.5, 433.5, 631, 660-662, 1002, 1105, 12.450, and 12.640 Board Workshop June 10, 2025

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PURPOSE: The proposed changes to the District Rules and Regulations results from increased costs of District operations, compliance with Federal requirements, changes in CalFire policies, and Fire Agencies withdrawal from burn permit issuance. This workshop and hearing is to present the recommended updates and changes, take public comment, and obtain direction from the Board so the District can proceed with noticing the State of California and EPA of the proposed changes prior to bringing them back to this Board for consideration.

INTRODUCTION

The District has funded the increase in staffing costs, insurance costs, equipment costs, and other charges for many years through cost savings, efficiencies, reduced spending, and salary savings from vacancies. These cost increases have significantly exceeded the CPI increases for current District Fees. Additionally, the State Legislature has adopted and implemented numerous reporting requirements on Districts with little or no funding, as Districts' 'have fee authority'. The District has finally come to a point in time where the District is no longer able to fund or absorb these costs and perform the mandated duties of the District, much less the voluntary duties, such as grant programs.

PROPOSED CHANGES

Rule 208.2 and 226.5: District Rule Section 208.2 defines Burn Day or Permissive Burn Day and District Rule Section 226.5 defines the fire season burn ban. District Rule Section 226.5 ending the annual burn ban relies on CalFire's declaration of an end of fire season. CalFire has notified the District that they will no longer declare an end to fire season due to the year round fire hazard conditions that exist in the region. As this will no longer occur, the rule section is proposed to be changed to state the annual burn ban will be lifted on November 15th of each year. In developing this proposed change, the District reviewed the end of fire season dates for the past 20 years, which averaged November 15. As a result of this review, the District is proposing to lift the burn ban annually on November 15 as an equivalent

to the existing rule. An alternative date of November 1 will require an offset in order to be considered an equivalent and prevent backsliding. The proposed offset would be to establish set no burn days, through District Rule 208.2, on the following holidays to prevent community impacts: Veterans day, Thanksgiving day, Christmas eve, Christmas day, New Years eve, New Years day, Martin Luther King Day, Presidents' Day, and Easter Sunday.

Rule 433.5: Rule Section 433.5 states that a residential exemption burn permit requires signature of the Fire Chief or authorized Fire Protection Agency employee. The Fire Chiefs association has provided a letter to the District stating they will no longer be participating in or issuing burn permits. As such, we are proposing language changes so the residential exemption burn permit will be issued through the District office.

Rule 631: Rule 631 is a fee charged to obtain a duplicate original permit. This rule is proposed to be repealed, as it is a stand alone rule where it should be incorporated into the Fee Rule. The duplicate original permit fee will be incorporated into the Fee Schedule proposed in in Section 660-662.

Rules 660-662: Rules 660-662 are the District's Fee Rule Sections. Pursuant to CA Health and Safety Code Section 40701.5, the District is funded by Grants, Subventions, Permit Fees, Penalties, and Vehicle License Fees (which we cannot implement). Other sources of funding are possible, but not readily available (property taxes, per capita fees to the County, etc). The existing Rule Sections 660-662 are proposed to be repealed and replaced in total, as the changes proposed are significant. The existing fee rule has not changed significantly since it was adopted in the early 1970's. Several additional categories, for geothermal, gas stations, asbestos, and burn permits, have been added in subsequent years. The current fee schedule has not increased other than CPI adjustments, since 1996, except for the addition of the burn permit fee in 2003. The District is currently operating at an estimated 50.5% cost recovery, with reserves and other costs savings making up the difference. This is no longer sustainable, and the District must implement measures to bring cost recovery closer to 100%, so that programs cover their actual costs. The District performed an internal fee study, identifying every task and staff hours required for each. The fees proposed are based on the actual costs of the District, including overhead for each task and program.

The fee schedule proposed is a complete change from the existing structure, resulting in more transparent fees and creating a fee rule where anyone can determine the permit fee for a source. In making the fee structure very transparent, the existing fee schedule based on potential to emit, is proposed to be repealed. The proposed

new fee schedule is primarily based on each facility's throughput limits and the staff time related to each facility type. The proposed fee schedule breaks out all major source types, operational systems, etc. and provides some general categories for any new source that we did not anticipate, until such time as a fee specific to that source type can be adopted.

This fee schedule also breaks our costs by typical staffing costs, reviews, reporting, emissions inventory, toxics evaluations, etc. and by the emissions of the source and the costs associated with monitoring, inspections, and emissions control evaluations of each source. This was done for two reasons: First, it provides an incentive for the installation of cleaner technologies as those that install cleaner equipment do not pay the costs of running higher emitting equipment; Second, it allows the District to more easily track the costs associated with monitoring emissions, inspections, etc.

The fee structure is being broken out into permitting and emissions categories for most sources. These all relate to the operation of the source, but the permitting is primarily developed to cover the administrative portion of the permits, basic inspections, compliance reviews, toxics review and calculations, and similar work. The emissions category is proposed so the costs of tracking emissions, air monitoring, complaint response, detailed inspections, and similar costs associated with the operational emissions impacts to the community. These fees take into account the control measures in place for a source category, so more polluting equipment pays higher fees as that equipment requires more staff time to verify compliance, costs of monitoring pollution, and similar issues. The cleanest equipment pays the lowest fees.

Rule 1002: Rule 1002 specifies the Agencies Authorized to Issue Burning Permits. This Rule has required updating for a few years as the Fire Agencies have changed since it was adopted. Additionally, as the Fire Chiefs have notified the District that they will no longer participate in the burn permit program, we are proposing a major modification of this rule. The proposal will remove the list of individual Fire Agencies, and instead provide the APCO authorization to come to an agreement with the Fire Agencies, should they decide to participate in the burn permit program in the future. This would allow for much faster process than a rule change process, and there would be no need to insert a list of Fire Agencies that may change.

Rule 1105: Rule 1105 is the rule related to authorized burn hours. The proposed modification is to clarify the burn hours, which were adopted for Agricultural Burning but were not incorporated into the burn hours defined in the Agricultural Burn Rule. The burn hours listed are the standard burn hours unless other hours are

specified in the issued permit. The proposed modification ensures that the burn hours for agricultural operations are clear and provide for extended burn days for Agricultural operations, as well as providing a clear definition of the extended burn hours.

Rules 12.450 and 12.640: District Rules 12.450 and 12.640, related to emergency events, are part of the District's Title V (Major Source) permitting program under EPA. The repeal of these rules is required by EPA. The District was notified by EPA that we cannot use the rules and must repeal them within 2 years. Therefore, we are proposing to repeal these rules to comply with this requirement. There are no sources in Lake County that are affected or could be affected at this time. The District currently does not have any source under a Title V permit.

The District provided draft rules to the California Air Resources Board and EPA in 2024, with no comments received back. The District is required to formally notice the California Air Resources Board at least 30 days before the Adoption Hearing, and we will do so once the final rule change package is ready.

This proposed rule change workshop was legally noticed and published in the Lake County Record Bee on May 27, 2025. The draft rules were made available on the District website and available at the District office. The notice invited comment on the workshop for the proposed rules and provided notice of the public workshop, scheduled for June 10, 2025 at 10:00 am in the Board Chambers. Copies of the proposed rules are contained in Attachment 1.

PUBLIC COMMENT

At the time of this staff report, no public comments have been received. A workshop is scheduled for June 10, 2025 during which we expect to receive a number of comments. Comments received prior to the Public Workshop will be provided to the Board with a summary of the comments during the presentation.

AFFECTED SOURCES

As the major rule change proposed is a fee rule, all sources and potential sources are affected. Pursuant to the Federal Clean Air Act and California Health and Safety Code, every source of air pollution shall pay a fee to cover the cost of regulating their emissions. There are a number of fee categories proposed for sources that we currently do not have within the District or currently have not required permits for. We are proposing adopting a fee schedule to ensure a fee is set for sources that are likely to require permits in the near future or that require evaluation for emissions, toxics, or other State or Federal reporting requirements.

FISCAL IMPACT UPON THE DISTRICT

The District expects that the first several years will result in significant staff resources to implement the changes. Future years should result in increased revenue and improved efficiencies at the District. The fiscal impact of the proposed rule changes over a five year period are not expected to be significant, other than increased revenue to offset the increased costs the District has absorbed for years, though short term impacts will occur as database reprogramming is required and other program modifications will be implemented at the same time to bring the District into better alignment with State and Federal reporting requirements. Should fees not be increased, the District is authorized to recover program costs pursuant to H&SC Sections 40701.5(b): *Expenses of a District that are not met by the funding sources identified in Subdivision (a) (grants, subventions, permit fees, penalties, and motor vehicle surcharge), shall be funded by an annual per capita assessment on the County.*

NECESSITY

The District is required by H&SC Sections 40001, to adopt and enforce rules and regulations to protect air quality, and meet and maintain State and Federal Ambient Air Quality Standards. The District has not implemented major fee changes, other than CPI adjustments, since 1996. The requirements, costs, and staffing needs of the District have increased significantly in the years since. The District is no longer able to perform all State and Federal mandates without additional staffing, equipment, and operational improvements that all require funding to implement. Other rule changes included are needed to provide clarification or updates to the existing rules to comply with current conditions and mandates.

AUTHORITY

The District is authorized by H&SC Sections 40000, to adopt and enforce rules and regulations to protect air quality, and meet and maintain State and Federal Ambient Air Quality Standards. Additional detail in this regard is contained in the language of the proposed implementing Resolution.

CLARITY

The District is proposing the above referenced rule updates and revisions to provide clarification of rules where conditions have changed since the original adoption and updates are necessary to ensure clarity for the public and regulated community. Additionally, the fee rule update is to provide better transparency for fees. The current fee structure was implemented in the 1970's, and is not clear for the public

to understand. The new proposal provides simple tracking of fees for every known source of air pollution in the District as well as a clear mechanism for fee calculations for new sources that are not covered by any other fee category.

CONSISTENCY

The proposed modifications are consistent with existing Rules and Regulations, State Law, and Federal Law.

NON-DUPLICATION

The proposed modifications do not duplicate any existing Rules, Regulations, State Law, or Federal Law.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) STATUS

Similar Regulation changes have been previously determined to be categorically exempt from CEQA. The District will submit a rule adoption package to the Lake County Community Development Department with a request to prepare a categorical exemption notice for these proposed rule changes.

SUMMARY

The District has a number of rules that need updating to bring them up to date with current conditions, provide clarity for existing rules, and provide transparency in fee calculations. Additionally, several Federal Title V rules are required to be repealed as they are no longer valid due to EPA's repeal of their rule.

The District is proposing updates to District Rules: 208.2, 226.5, 660-662, 1002, and 1105. The District is proposing to repeal District Rules 631, 12-450, and 12-640.

This workshop is intended to take public comment and Board direction to proceed with rule updates. The final version of the Rules will be brought back to the Board of Directors for consideration. The Rules also must be sent to the State of California and EPA for comment prior to adoption. The implementation of the changes proposed would start upon adoption of the Rules by the District Board of Directors.