

## TEHAMA COUNTY AIR POLLUTION CONTROL DISTRICT

### RULE 2:11 D INDIRECT SOURCE FEES

Adopted 10/26/2010, Amended 08/02/2011, Amended 01/10/2012, Amended 01/10/2013, Amended 02/11/2014

1. Purpose: To provide the Tehama County Air Pollution Control District (District) with a sound method for mitigating the emissions produced from the operation of new commercial and residential development projects throughout the County of Tehama, including within the incorporated cities in the County. All developers have the option to pay the Indirect Source Fee established by this rule, provide on-site or off-site mitigation through an Alternative Emission Reduction Plan, or do a combination of both. This rule will assist the District in attaining and maintaining the State ambient air quality standards for PM10 and Ozone.
2. Definitions: For the purposes of this rule, and in addition to the definitions in Rule 1:2 Definitions, the following definitions shall apply:
  - 2.1. Developer: Any person whose causes, suffers, or permits the construction of any Indirect Source anywhere within the boundaries of the Tehama County Air Pollution Control District. "Developer" shall not include a public entity that issues a permit or other approval for an Indirect Source constructed by another person.
  - 2.2. Indirect Source: Any facility, building, structure, installation, real property, road or highway which attracts or may attract mobile sources of air pollution.
  - 2.3. Industrial Land Use Group: Includes warehouses, general light industry facilities, general heavy industry facilities, industrial parks, and manufacturing facilities.
  - 2.4. Mitigation: For the purpose of this rule, mitigation means an activity taken or conditions incorporated in a project to avoid, minimize, reduce, eliminate, or compensate emissions estimated to occur from new development projects.
  - 2.5. Office Land Use Group: Includes banks (with drive-through), general office buildings, office parks, medical office buildings, hospitals, day-care centers, elementary schools, junior high schools, high schools, junior colleges (2 year), libraries, government office buildings, government (civic center) facilities, racquet club, racquetball/health club, and places of worship.

2.6. Residential: Any construction, placement, or installation of a family dwelling unit. Each dwelling shall be considered one unit. Residential projects can be placed in one of the following three categories:

2.6.1. Single Family Dwelling: A building, including accessory buildings, used as living quarters by one family.

2.6.2. Multiple Family Dwelling: A building, including accessory buildings, used as living quarters by multiple families residing independent of one another.

2.6.3. Mobile Home: A mobile home as defined in Health and Safety Code section 18008 or a manufactured home as defined in Health and Safety Code section 18007, whether located within or outside a park, the construction, placement, or installation of which requires a permit issued by the applicable City, County, or other enforcement agency.

2.7. Retail Land Use Group: Includes free-standing discount stores, free standing discount superstores, discount clubs, regional shopping centers, electronic superstores, home improvement superstores, supermarkets, hardware/paint stores, strip malls, convenience markets (24 hour), convenience markets with gas pumps, gasoline service stations, restaurants, hotels and motels.

3. Exemptions and Reductions:

3.1. The following construction units are exempt from provisions of this rule:

3.1.1. Reconstruction of any development project that is damaged or destroyed and is rebuilt to essentially the same use and intensity.

3.1.2. Remodeling of residential or commercial buildings where no expansion of square footage occurs.

3.1.3. Remodeling or expansion at existing single family residential dwelling.

3.2. All Developers have the option to develop and implement an Alternative Emission Reduction Plan to provide full or partial mitigation of emissions associated with the project. An Alternative Emission Reduction Plan may include or consist of an individualized, project-specific analysis demonstrating that the emissions associated with the project are less than the emissions amounts upon which the otherwise applicable fees listed in Table 1 or Table 2 as applicable were calculated. In each instance, the otherwise applicable fees listed in Table 1 or Table 2 as applicable will be reduced in proportion to the demonstrated reduction

in emissions associated with the project. The Alternative Emission Reduction Plan shall comply with the requirements of Section 6.

4. Applicable Fee: Except as provided in Section 3 of this Rule, any developer who obtains a building permit within the County of Tehama, or any incorporated city within Tehama County, shall pay the following fee to the District:

Table 1 – Fees Effective July 1, 2012 through December 31, 2014

		Ozone Precursors	PM10	Total
A.	Residential Single Family Dwelling	\$111.75/Unit	\$60.25/Unit	\$172.00/Unit
B.	Residential Multiple Family Dwelling	\$101.50/Unit	\$54.50/Unit	\$156.00/Unit
C.	Mobile Home	\$74.75/Unit	\$39.50/unit	\$114.25/Unit
D.	Retail	\$0.275/Sq. Ft.	\$0.125/Sq. Ft.	\$0.40/Sq. Ft.
E.	Industrial	\$0.06/Sq. Ft.	\$0.03/Sq. Ft.	\$0.09/Sq. Ft.
F	Office	\$0.145/Sq. Ft.	\$0.075/Sq. Ft.	\$0.22/Sq. Ft.

Table 2 – Fees Effective January 1, 2015 and Thereafter

		Ozone Precursors	PM10	Total
A.	Residential Single Family Dwelling	\$223.50/Unit	\$120.50/Unit	\$344.00/Unit
B.	Residential Multiple Family Dwelling	\$203.00/Unit	\$109.00/Unit	\$312.00/Unit
C.	Mobile Home	\$149.50/Unit	\$79.00/unit	\$228.50/Unit
D.	Retail	\$0.55/Sq. Ft.	\$0.25/Sq. Ft.	\$0.80/Sq. Ft.
E.	Industrial	\$0.12/Sq. Ft.	\$0.06/Sq. Ft.	\$0.18/Sq. Ft.
F	Office	\$0.29/Sq. Ft.	\$0.15/Sq. Ft.	\$0.44/Sq. Ft.

4.1. The fees listed in Table 2 shall automatically be adjusted annually effective on the 1st day of July, beginning July 1, 2015, as follows: The Air

Pollution Control Officer shall adjust the amounts based on the change in the California Consumer Price Index for the preceding year, as determined pursuant to Section 2212 of the Revenue and Taxation Code. No later than the 1<sup>st</sup> day of May each year, the Air Pollution Control Officer shall make a report to the Board of Directors. The Board may initiate proceedings to suspend or reduce any upward adjustment through an amendment to this Rule.

5. Administrative Requirements:

5.1. The appropriate Indirect Source Fees, including any reduced fees set forth in an approved Alternative Emission Reduction Plan, shall be paid to the District by the developer at the time of obtaining the building permit. If approved by the District, the developer may have the option to defer payment of these fees by signing a deferral agreement with the District under the following conditions:

5.1.1. The developer may request that the payment of Indirect Source Fees be deferred to the time that a Certificate of Occupancy (or equivalent documentation) is issued. Such request must be made to the Air Pollution Control Officer in writing.

5.1.2. The fees shall be paid at the higher of the current applicable rate at the time of final payment or the rate at the time of obtaining the building permit.

5.1.3. If the fee is not paid at the time that a Certificate of Occupancy (or equivalent documentation) is issued, the developer shall be in violation of this Rule, and shall be subject to the penalties set forth in Article 3 (Commencing with Section 42400) of Chapter 4 of Part 4 of Division 26 of the Health and Safety Code.

5.1.4. All of the foregoing must be set forth in writing that is in a form acceptable to the District Counsel and executed by the developer and the Air Pollution Control Officer.

5.2. Funds established by the fee schedule in Section 4 will be separated into two accounts. Account 1 will be designated towards the reduction of Ozone Precursor emissions. Account 2 will be designated towards the reduction of PM10 emissions. No more than 10% of the combined funds may be used by the Air Pollution Control District to offset costs of administration. Any balance of the funds shall be carried over to the next fiscal year.

5.3. Funds will be allocated by the Board of Directors through a Request For Proposal (RFP) process for proposed mitigation projects based on the cost analysis and emissions reductions of each project.

5.4. RFPs shall be published by the District by August 1st of each year, based on the fees collected throughout the previous fiscal year.

5.5. Any person seeking funding for a mitigation project shall develop and submit a written Mitigation Project Report. The minimum criteria the proposed mitigation projects shall meet for considerations are the following:

- 5.5.1. The proposed Mitigation Project Report shall contain a detailed project description, including sufficient information and documentation that supports the calculation of emissions and emissions reductions specified in the report.
- 5.5.2. A thorough emission reduction analysis shall be performed for the proposed mitigation project using emission factors from EPA document AP-42 “Compliance of Air Pollution Emission Factors”, the latest version of EMFAC, or other source(s) approved by the Air Pollution Control Officer. The emission reduction analysis shall include calculations for estimated emission reductions of all criteria pollutants on a daily and yearly basis. Documentation of emission factors and all assumptions shall be provided with the documentation.
- 5.5.3. Emission reductions produced by the proposed mitigation projects must be above and beyond what is being required by any federal, State, or local regulation, memorandum of agreement/understanding with a regulatory agency, settlement agreement, mitigation requirement, or other legal mandate.
- 5.5.4. Mitigation projects must adhere to the minimum cost-effectiveness criteria established by District using the rolling 3 year average figures to offset one weighted ton of PM10 or Ozone Precursors by projects funded in the preceding three years under this Rule and under the District's Carl Moyer Program.
- 5.5.5. No emission reductions obtained by the proposed mitigation projects shall be utilized as marketable emission reduction credits, or to offset any emission reduction obligation of any individual or entity.
- 5.5.6. Mitigation projects are obligated to have a minimum project life of ten years. Proposed projects possessing shorter life spans may be approved on a case-by-case basis by the Board of Directors. If approved, projects with shorter lives may be subject to additional funding restrictions, such as a lower cost-effectiveness limit and/or a project cost cap.

5.5.7. Potential mitigation projects that do not meet designated criteria of 10 year life span or cost-effectiveness may be considered by the Board of Directors on a case-by-case basis if evidence supplied to the Board of Directors demonstrates potential surplus, real, quantifiable and enforceable emission reduction benefits.

5.6. A review committee for the proposed mitigation projects shall be established by the District. The Air Pollution Control Officer, or his designee, shall act as the secretary and oversee the meetings and activities of the review committee. However, the Air Pollution Control Officer, or his designee shall have no voting power during the proceedings. The committee will be composed of five members as followed:

5.6.1. (1) a representative of the County of Tehama appointed by the Tehama County Board of Supervisors, (2) a representative of the public (member-at-large), appointed by the District Board of Directors; (3) one member representing the City of Corning and one member representing the City of Red Bluff, each appointed by their respective city councils; (4) a representative of the construction industry, appointed by the District Board of Directors.

5.6.2. The review committee will evaluate, review, and recommend the proposed mitigation projects based on the cost-effectiveness of each project. The District Board of Directors will make the final selection of mitigation projects.

5.7. The Board of Directors will enter into a binding contract with each successful mitigation project applicant, which will, at a minimum, require an annual report from the applicant that includes information necessary to ensure that emissions reductions are actually occurring.

5.8. On August 1st of each year the District will prepare an annual report which will include the following elements: total amount of fees received; total monies spent; total monies remaining; a list of all projects funded; total emissions reductions realized; and the overall cost-effectiveness factor for the projects funded.

6. Alternative Emission Reduction Plan Requirements: Any person seeking full or partial exemption from the otherwise applicable fee(s) set forth in Table 1 or Table 2 as applicable, including reductions based in whole or in part upon an individualized analysis of the emissions impacts associated with the project, shall develop and submit for the Air Pollution Control Officer's approval a written Alternative Emission Reduction Plan. The Alternative Emission Reduction Plan shall meet all of the following requirements:

- 6.1. The Plan shall contain a detailed project description, including sufficient information and documentation that supports the calculation of emissions and emissions reductions specified in the Plan.
- 6.2. A thorough emission reduction analysis shall be performed for the Alternative Emission Reduction Plan using emission factors from EPA document AP-42 "Compliance of Air Pollution Emission Factors", the latest version of EMFAC, or other source(s) approved by the Air Pollution Control Officer. The emission reduction analysis shall include calculations for estimated emission reductions of all criteria pollutants on a daily and yearly basis. Documentation of emission factors and all assumptions shall be provided with the documentation.
- 6.3. Emission reductions contained in the Plan shall be Real, Surplus, Quantifiable, and Enforceable.
- 6.4. Emission reductions contained in the Plan can NOT be utilized as marketable emission reduction credits, or to offset any emission reduction obligation of any individual or entity.
- 6.5. Any person who submits an Alternative Emission Reduction Plan containing materially false representations shall be in violation of this Rule, and shall be subject to the penalties set forth in Article 3 (Commencing with Section 42400) of Chapter 4 of Part 4 of Division 26 of the Health and Safety Code. Any such Alternative Emission Reduction Plan shall be disregarded for purposes of determining the applicable fee(s) under this Rule, and the full fee(s) set forth in Table 1 shall be paid to the District.
- 6.6. If the Air Pollution Control Officer denies or conditionally approves a proposed Alternative Emission Reduction Plan, the Developer may appeal such determination to the Hearing Board by filing a written appeal with the Clerk of the Hearing Board within thirty (30) days after the date the Air Pollution Control Officer renders his or her decision on the Plan. The written appeal shall state with specificity the grounds for challenging the decision of the Air Pollution Control Officer. The Hearing Board shall hear and decide whether the proposed Alternative Emission Reduction Plan complies with the requirements of this Rule, considering only those grounds raised in the Developer's written appeal and giving the Air Pollution Control Officer's decision a rebuttable presumption of correctness, which shall affect the burden of proof.
7. Alternative Emissions Reduction Plan Fees: The applicant shall reimburse the District for any time expended in the review and evaluation of an Alternative Emission Reduction Plan at the Hourly Labor Rates set forth in Rule 2:11. The District shall provide the applicant a cost estimate for reviewing the Alternative Emission Reduction Plan, and calculating any applicable fee reductions. A deposit of 50% of the estimated cost estimated shall be paid by the applicant at the time of submittal of the Alternative Emission Reduction Plan.