

Staff Report
Board Meeting Date: November 20, 2025

DATE: November 14, 2025
TO: District Board of Health
FROM: Francisco Vega, Division Director
(775) 784-7211, fvega@nnph.org
SUBJECT: Recommendation for the Board to uphold an uncontested citation issued to Smith's Food & Drug Centers, Inc., Case No. 1585, Notice of Violation No. AQMV25-0018 with a \$500.00 Administrative Penalty for failing to comply with vapor recovery testing requirements in Permit to Operate No. AAIR16-0800.

SUMMARY

Northern Nevada Public Health, Air Quality Management Division (AQMD) staff recommends Notice of Violation (NOV) No. AQMV25-0018 be **upheld** and a fine in the amount of **\$500.00** be levied against Smith's Food & Drug Centers, Inc. for failure to comply with the provisions of Permit to Operate AAIR16-0800, specifically Condition No. 10: The owner/operator must conduct and pass a 2 Inch WC Static Pressure Performance Test of Vapor Recovery System annually to demonstrate compliance with the California Air Resource Board (CARB) Executive Orders and Condition No. 11: The owner/operator must conduct and pass an Air to Liquid (A/L) Volume Ratio Test of the Vapor Recovery System annually to demonstrate compliance with the California Air Resource Board (CARB) Executive Orders. These actions are **minor violations** of the District Board of Health Regulations Governing Air Quality Management (DBOH Regulations), specifically Section 040.080 (Gasoline Transfer and Dispensing Facilities) Section C (Standards) Subsection 1 (Gasoline Transfer Into Stationary Storage Containers) Subsection b.

District Health Strategic Priority supported by this item:

2. **Healthy Environment:** Create a healthier environment that allows people to safely enjoy everything Washoe County has to offer.

PREVIOUS ACTION

Smith's Food & Drug Centers, Inc. was previously issued a Warning Letter on July 13, 2022, for failing to comply with the vapor recovery testing requirements found in AAIR16-0800.

BACKGROUND

Please refer to the attached NOV No. AQMV25-0018 for specific information. The NOV contains the facts associated with the incident of noncompliance and supporting documentation relevant to the NOV.

NOV No. AQMV25-0018 and associated documentation supporting the NOV was sent certified mail to the offices of Smith's Food & Drug Centers, Inc. and was received on October 14, 2025. The certified

mail contained instructions for filing an appeal of the NOV to the Air Pollution Control Hearing Board and the "Appeal Petition to the Air Pollution Control Hearing Board" form.

An appeal of NOV No. AQMV25-0018 was not exercised by Smith's Food & Drug Centers, Inc. within the 10-day appeal timeframe pursuant to paragraph 020.000.C.3 Appeal Procedure and Smith's Food & Drug Centers, Inc. consented to the violation and the penalty. As such, NOV No. AQMV25-0018 was determined to be final by the AQMD with a penalty amount of \$500.00.

FISCAL IMPACT

There are no fiscal impacts resulting from the Board upholding the issuance of the Notice of Violation and associated Administrative Penalty. All Administrative Penalty money collected is forwarded to the Washoe County School District to be used for environmentally focused projects for the benefit of the students.

RECOMMENDATION

Staff recommend the Board uphold an uncontested citation issued to Smith's Food & Drug Centers, Inc., Case No. 1585, Notice of Violation No. AQMV25-0018, with a \$500.00 Administrative Penalty.

ALTERNATIVE

Should the Board wish to consider an alternative to upholding the Staff recommendation, as presented, the item should be pulled from the Consent Agenda for discussion. Possible alternatives are:

1. The Board may determine no violation of the regulations has occurred and dismiss Notice of Violation No. AQMV25-0018; or
2. The Board may determine to uphold Notice of Violation No. AQMV25-0018 and levy any Administrative Penalty in the range of \$0.00 to \$500.00 per day per violation for the minor violation.

POSSIBLE MOTION

Should the Board agree with Staff's recommendation, the motion would be:

1. "Move to uphold an uncontested penalty issued to Smith's Food & Drug Centers, Inc., Case No. 1585, Notice of Violation No. AQMV25-0018 with an Administrative Penalty of \$500.00."

Or, should the Board wish to consider an alternative motion the item should be pulled from the Consent Agenda for discussion and, the possible motion may be:

1. "Move to dismiss Case No. 1585, Notice of Violation No. AQMV25-0018, issued to Smith's Food & Drug Centers, Inc." or
2. "Move to uphold Case No. 1585, Notice of Violation No. AQMV25-0018, and levy an Administrative Penalty in the amount of (range of \$0.00 to \$500.00) per day per violation, with the matter being continued to the next meeting to allow for the Smith's Food & Drug Centers, Inc. to be properly noticed."