

EL DORADO COUNTY AIR QUALITY MANAGEMENT DISTRICT

STAFF REPORT

**PROPOSED AMENDMENTS TO:
RULE 517 – NOTICE TO COMPLY**

August 25, 2008

Prepared by: Marcella McTaggart
Air Pollution Control Officer

Table of Contents	Page
A. EXECUTIVE SUMMARY	3
B. INTRODUCTION.....	3
C. BACKGROUND.....	3
D. DISCUSSION OF PROPOSED RULE AMENDMENT.....	3
E. IMPACTS OF THE AMENDED RULE	3
F. ENVIRONMENTAL IMPACTS OF METHODS OF COMPLIANCE.....	4
G. REGULATORY FINDINGS	5
H. COMPARISON WITH OTHER APPLICABLE REGULATIONS AND REQUIREMENTS.....	6
I. PUBLIC COMMENTS AND STAFF RESPONSES	6

ATTACHMENT A: PROPOSED AMENDMENTS TO RULE 517 – NOTICE TO COMPLY;
 STRIKE-OUT UNDERLINE VERSION

ATTACHMENT B: NOTICE OF EXEMPTION FROM CEQA

A. EXECUTIVE SUMMARY

On August 25, 2009, the El Dorado County Air Quality Management District (AQMD) Board of Director's will consider the adoption of the following amended Rule 517 – Notice to Comply.

The amendments remove all references in the rule to Health and Safety Code (HSC), Sections 39150 – 39153 which included a sunset date of January 1, 2006. As a result these Sections were deleted from the HSC on that date. In addition, Minor Violation definition is modified to allow issuance of Notice to Comply (NTC) for excess emissions of an insignificant nature.

The purpose of staff proposing amended Rule 517 – Notice to Comply is to correct the existing deficiency in the rule and confirm its legal viability. The rule is popular with industry because minor violations are treated at an appropriate level. Removing the expiration provision from the rule, will allow AQMD staff to continue to issue Notices to Comply (NTC) for minor violations rather than Notices of Violation (NOV). An NTC provides a violator with an opportunity to correct a violation without the assessment of a fine or penalty. An NOV generally results in a fine or penalty.

B. INTRODUCTION

Rule 517 – Notice to Comply defines minor violations and sets guidelines for issuing an NTC. An NTC imposes no payment or penalty on the recipient. It does, however, establish a time limit for compliance, not to exceed 30 days. The NTC is essentially a “fix-it” ticket for minor violations that are easily corrected.

C. BACKGROUND

LEGAL MANDATES

Federal Mandates: The AQMD has been designated as a non-attainment area for the federal ozone standard by the U.S. Environmental Protection Agency. The AQMD is required to implement and enforce regulations that will make progress towards the federal ozone attainment status.

State Mandates: The AQMD is designated non-attainment for the State ozone standard by the California Air Resources Board. The AQMD is required to implement and enforce all feasible measures towards attainment of the state standards.

D. DISCUSSION OF PROPOSED RULE AMENDMENTS

The following is a summary of changes and modifications being proposed for Rule 517 – Notice to Comply:

- Section 517.1.A: Modified to remove reference to HSC Sections 39151 and 39152 and added reference the California Code of Regulations (CCR) Title 17, Division 3, Chapter 1, Article 5, Section 60090 – 60094.
- Section 517.2: Added definitions for “De Minimis Emissions” and “Owner or Operator”
- Section 517.2.C.1: Modified to allow for de minimis amount of excess emissions.
- Section 517.2.D: Modified to remove reference to HSC Sections 39151 and 39152.
- Section 517.4.E: Deleted.

E. IMPACTS OF THE AMENDED RULE

Emissions Impacts

There are no significant emissions impacts as the amendments are primarily administrative in nature.

Socioeconomic Impacts

California Health and Safety Code Section 40728.5(a) requires, in part, that:

“Whenever a district intends to propose the adoption, amendment or repeal of a rule or regulation that will significantly affect air quality or emissions limitations, that agency shall, to the extent that data are available, perform an assessment of the socioeconomic impacts of the adoption, amendment, or repeal of the rule or regulation.”

Air districts with a population of less than 500,000 persons are exempt from the provisions of Section 40728.5 (a). The AQMD’s population is estimated to be approximately 176,000, well below the 500,000 person threshold. Therefore, a socioeconomic analysis for this rulemaking is not required.

Cost Impacts

Cost Effectiveness

California Health and Safety Code Section 40703 requires that all air quality districts consider and make public findings relating to the cost effectiveness of implementing an emission control measure.

The proposed revisions to Rule 517 are administrative in nature and not related to any control measure. Therefore a finding on cost effectiveness is not required.

Cost to EDCAQMD

Staff does not anticipate an additional need for staff resources.

F. ENVIRONMENTAL IMPACTS OF METHODS OF COMPLIANCE

The proposed revisions to Rule 517 are administrative in nature and involve no pollution control equipment. Therefore the revision is categorically exempt. Staff has prepared a Notice of Exemption to meet the CEQA Guidelines (Attachment B)

G. REGULATORY FINDINGS

California Health and Safety Code Section 40727(a) requires that prior to adopting or amending a rule or regulation, an air district’s board must make findings of necessity, authority, clarity, consistency, nonduplication and reference. The findings must be based on the following:

1. Information presented in the AQMD’s written analysis, prepared pursuant to California Health and Safety Code Section 40727.2;
2. Information contained in the rulemaking records pursuant to California Health and Safety Code Section 40728; and
3. Relevant information presented at the Board’s hearing for the rule.

The table below describes the finding and the basis for making the finding.

FINDING	FINDING DETERMINATION
<p><u>Necessity</u>: The AQMD must find that the rulemaking demonstrates a need exists for the rule or for its amendment or repeal. (CH&SC Section 40727(b)(1))</p>	<p>Rule 517 It is necessary for the AQMD to adopt the proposed rule amendments to continue to use provisions of the rule.</p>
<p><u>Authority</u>: The AQMD must find that a provision of law or of a state or federal regulation permits or requires the AQMD to adopt, amend or repeal the rule. (CH&SC Section 40727(b)(2))</p>	<p>Rule 517 The AQMD is authorized to adopt rules and regulations by CH&SC Sections 40001, 40702, 40716, 40919, 41010, 41013 and 42300.</p>
<p><u>Clarity</u>: The AQMD must find that the rule is written or displayed so that its meaning can be easily understood by the persons directly affected by it. (CH&SC Section 40727(b)(3))</p>	<p>Rule 517 The AQMD has reviewed the proposed amendments and determined that they can be easily understood by the affected industry. In addition, the record contains no evidence that the persons directly affected by the rule cannot understand the rule. This rule has been in existence since Feb 2000. The amendments are not substantive changes to the rule.</p>
<p><u>Consistency</u>: The rule is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations. (CH&SC Section 40727(b)(4))</p>	<p>Rule 517 The proposed amendments do not conflict with and are not contradictory to existing statutes, court decisions, or state or federal regulations.</p>
<p><u>Non-Duplication</u>: The AQMD must find that either: 1) The rule does not impose the same requirements as an existing state or federal regulation; or 2) that the duplicative requirements are necessary or proper to execute the powers and duties granted to, and imposed upon, the AQMD. (CH&SC Section 40727(b)(5)).</p>	<p>Rule 517 The proposed amendment is duplicative of 17 CCR Subchapter 1.25, Article 6, Section 60090 – 60094, but is necessary to execute the powers and duties granted to, and imposed upon, the AQMD.</p>
<p><u>Reference</u>: The AQMD must refer to any statute, court decision or other provision of law that the AQMD implements, interprets or makes specific by adopting, amending or repealing the rule. (CH&SC Section 40727(b)(6))</p>	<p>Rule 517 California HSC Section 40001 and CCR Title 17 Sections 60090 – 60094.</p>

H. COMPARISON WITH OTHER APPLICABLE REGULATIONS AND REQUIREMENTS

California Health and Safety Code Section 40727.2 requires districts to prepare a written analysis (may be in the form of a matrix) that identifies all existing federal air pollution control requirements, including, but not limited to, emission control standards constituting BACT, that apply to the same equipment or source type as the rule or regulation proposed for adoption or modification by the

AQMD. In addition, the analysis shall identify any other AQMD rule or regulation that applies to the same equipment or source type. The analysis shall compare the following specific elements:

Rule	Source	Emission Reductions / Limits	Averaging Procedures (Units), Work Practices, Operating Provisions	Monitoring, Recordkeeping, Reporting, Test Methods
State rule	17 CCR Subchapter 1.25, Article 6, Section 60090 – 60094	Not applicable	Not applicable	Not applicable
State rule	H&SC Chapter 3, Article 2 & 3	Not applicable	Not applicable	Not applicable
Federal rule	No regulations identified.	Not applicable	Not applicable	Not applicable

I. PUBLIC NOTICE, COMMENTS AND STAFF RESPONSES

No public workshops were held due to noncontroversial nature of this issue. The notice for this rule amendment was mailed to all permitted sources and to neighboring air districts. In addition, the notice was published in the Mountain Democrat, the Tahoe Daily Tribune and on the EDCAQMD website in accordance with Health and Safety Code 42311.

ATTACHMENT A

**PROPOSED AMENDMENTS TO
RULE 517 – NOTICE TO COMPLY;
STRIKE-OUT UNDERLINE VERSION**

ATTACHMENT B
NOTICE OF EXEMPTION FROM CEQA

