

EL DORADO COUNTY AIR QUALITY MANAGEMENT DISTRICT

STAFF REPORT

PROPOSED AMENDMENTS TO:

RULE 300 – OPEN BURNING

June 3, 2008

Prepared by: Carolyn Craig

Approved by: Marcella McTaggart
Air Pollution Control Officer

A. EXECUTIVE SUMMARY

On June 3, 2008, the El Dorado County Air Quality Management District (AQMD) Board of Director's will consider the adoption of the following amended Rule 300-Open Burning.

The amendments update the rule to align the rule with the California Health and Safety Code, the Air Toxic Control Measures (17 California Code of Regulations, Subchapter 7.5) and to update obsolete references.

The purpose of staff proposing amended Rule 300 is to include Section 41812 of the California Health and Safety Code, which will allow the AQMD to meet recommendations proposed by the Emergency California-Nevada Tahoe Basin Fire Commission pertaining to utilization of mechanized burners as a viable solution to minimize health-based air quality issues and visibility impacts when reducing the forest fuel load.

B. INTRODUCTION

Rule 300 – Open Burning sets requirements for open fires for residential, commercial and agricultural purposes. Rule 300-Open Burning was originally adopted on June 17, 1997.

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 the major requirements being proposed for amended Rule 300 – Open Burning.

1. Sections 300.1.F -Incorporates California Health and Safety Code Section 41812.
2. Section 300.2.Q. -Removes reference to fires in 55 gallon drums to align with the Airborne Toxic Control Measure to Reduce Emissions of Toxic Air Contaminants from Outdoor Residential Waste Burning (17 California Code of Regulations, section 93113).

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.”

However, 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 169,000, 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 rule amendments are administrative in nature and do not have any cost impacts.

Cost to EDCAQMD

Staff does not anticipate an additional need for staff resources.

F. ENVIRONMENTAL IMPACTS OF METHODS OF COMPLIANCE

The amendment of Rule 300-Open Burning is administrative in nature and the rule is an action taken to protect the environment. 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>Necessity: 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 300 It is necessary for the AQMD to adopt the proposed rule amendments to correct and streamline the existing rule.</p>
<p>Authority: 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 300 The AQMD is authorized to adopt rules and regulations by CH&SC Sections 40001, 40702, 40716, 40919, 41010, 41013 and 42300.</p>
<p>Clarity: 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 300 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.</p>
<p>Consistency: 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 300 The proposed amendments do not conflict with and are not contradictory to existing statutes, court decisions, or state or federal regulations.</p>
<p>Non-Duplication: 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 300 The proposed amendments are duplicative of the California H & SC Chapter 3, Article 2, Nonagricultural Burning and Article 3, Agricultural Burning; and 17 CCR Subchapter 7.5, but are necessary to execute the powers and duties granted to, and imposed upon, the AQMD.</p>
<p>Reference: 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 300 California H&SC Section 40001.</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 7.5.	Best Management Practices, Prohibitions.	Best Management Practices	Not applicable
State rule	H&SC Chapter 3, Article 2 & 3	Best Management Practices, Prohibitions	Best Management Practices.	Permits required.
Federal rule	No regulations identified.	No regulations identified.	No regulations identified.	No regulations identified.

I. PUBLIC NOTICE, COMMENTS AND STAFF RESPONSES

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 EDC AQMD website in accordance with Health and Safety Code 42311.

ATTACHMENT A

PROPOSED AMENDMENTS TO RULE 300 – OPEN BURNING; STRIKE-OUT UNDERLINE VERSION

ATTACHMENT B
NOTICE OF EXEMPTION FROM CEQA

Notice of Exemption

Form C

To: Office of Planning and Research
PO Box 3044
1400 Tenth Street, Room 121
Sacramento, CA 95812-3044

From: (Public Agency)
Air Quality Management District
2850 Fairlane Court
Placerville, CA 95667

County Clerk
 County of El Dorado
330 Fair Lane
Placerville, CA 95667

Project Title

Amendment to EDCAQMD Rule 300 – Open Burning

El Dorado County Air Quality Management District

Project Location – Specific

(El Dorado County)

El Dorado County Air Quality Management District

Project Description:

Rule 300- Open Burning establish the AQMD’s requirements for outdoor burning. The purpose of this amendment is to align the requirements with the California Health and Safety Code and the California Code of Regulations.

El Dorado County Air Quality Management District

Name of Public Agency Approving Project

El Dorado County Air Quality Management District

530-621-6662

Name of Person or Agency Carrying Out Project

Telephone Number

Exempt Status:

- Ministerial (Sections 210800(b)(1); 15268)
- Declared Emergency (Sections 21080(b)(3); 15269(a))
- Emergency Project (Sections 21080(b)(4); 15269(b)(c))
- Categorical Exemption. State type and section number: CEQA Guidelines Section 15308
- Statutory Exemption. State code number: _____

Reasons why project is exempt:

Revision of Rule 300 – Open Burning is an action taken to protect the environment and is therefore exempt from CEQA because it constitutes a Class 8 categorical exemption pursuant to CEQA Guidelines 15308.

Lead Agency

Area Code/

Contact Person: Marcella McTaggart

Telephone/Extension: (530) 621-5306

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature (Public Agency)

Date

Title

- Signed by Lead Agency
- Signed by Applicant

Date received for filing at OPR: