



County of El Dorado

330 Fair Lane, Building A
Placerville, California
530 621-5390
FAX 622-3645
www.edcgov.us/bos/

Legislation Details (With Text)

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Type: Agenda Item **Status:** Approved

File created: 6/18/2009 **In control:** Board Of Supervisors

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Title: Hearing to consider adoption of Proposed Amendments to Rule 517 - Notice to Comply; and recommending the Board make findings of Authority, Necessity, Clarity, Consistency, Nonduplication and Reference, as required by Health and Safety Code (HSC), Sections 40703 and 40727.

FUNDING: Not Applicable.

Sponsors:

Indexes:

Code sections:

Attachments: 1. (A) Rule 517 Staff Report.pdf, 2. (B) Rule 517-Notice to Comply.pdf, 3. Board Presentation_Rule 517.pdf

Date	Ver.	Action By	Action	Result
8/25/2009	1	Board Of Supervisors	Approved	Pass

Hearing to consider adoption of Proposed Amendments to Rule 517 - Notice to Comply; and recommending the Board make findings of Authority, Necessity, Clarity, Consistency, Nonduplication and Reference, as required by Health and Safety Code (HSC), Sections 40703 and 40727.

FUNDING: Not Applicable.

BUDGET SUMMARY:		
Total Estimated Cost		\$
Funding		
Budgeted	\$	
New Funding	\$	
Savings	\$	
Other	\$	
Total Funding Available	\$	
Change To Net County Cost		\$

Fiscal Impact/Change to Net County Cost:
No impact to net county cost.

Background:

Rule 517 - Notice to Comply, was adopted by the AQMD Board on February 15, 2000. The rule implemented HSC Sections 39150 - 39153, which were codified in 1996 via Assembly Bill 2937. The law required the California Air Resources Board (CARB) and air quality management districts to adopt rules establishing conditions under which a

Notice to Comply (NTC) would be issued for "minor violation", rather than a Notice of Violation (NOV). A NTC may be issued for a number of minor infractions, including administrative and procedural violations. It is essentially a "fix-it" ticket which provides the violator (facility, operator or owner) an opportunity to correct the violation without the assessment of a fine or penalty. The AQMD issues NOVs for violations of a more serious nature. An NOV could also be issued when the violator fails to comply with an NTC. NOVs are referred to the AQMD's Mutual Settlement Program and may result in monetary penalties.

The original HSC Sections 39150 - 39153 included a specific sunset date of January 1, 2001. In 2000, the sunset date was amended to January 1, 2006. As a result, Sections 39150 - 39153 were deleted from HSC. Because the deleted HSC sections are referenced in the rule, staff proposes (1) to remove references of those deleted sections and (2) to modify "Minor Violation" definition to allow for issuance of an NTC for infractions associated with excess emissions of an insignificant (de minimis) nature.

Reason for Recommendation:

The AQMD is taking steps to correct the existing deficiency in Rule 517 to re-establish its legal viability and to expand its applicability for infractions associated with insignificant excess emissions. The rule is popular with regulated sources, because minor violations are treated at" appropriate level, avoiding NOVs. As stated in the original HSC Section 39150:

"It is the intent of the Legislature in enacting this chapter to provide a more resource-efficient enforcement mechanism, faster compliance times, and the creation of a productive and cooperative working relationship between the state board, the districts, and the regulated community while maintaining protection of human health and safety and the environment".

No public workshops were held due to noncontroversial nature of this issue. The notice for this rule amendment hearing 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 AQMD website in accordance with HSC 42311.

Action to be taken following Board approval:

Forward the minute order to the AQMD for further processing. The AQMD will forward the amended rule to CARB for inclusion in the District Rules Database.

Contact:

Marcella McTaggart x5306

Concurrences:

County Counsel has approved the amendments to Rule 517 - Notice to Comply and the associated Staff Report.