



**BOARD OF SUPERVISORS
AGENDA LETTER**

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Public Health
Department No.: 041
For Agenda Of: December 9, 2014
Placement: Department
Estimated Tme: First Reading (D) on
12/09/14 (45 minutes)
Second Reading (A) on
01/06/15
Continued Item: Yes
If Yes, date from: November 4, 2014
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Takashi M. Wada, MD MPH, Director
Director Public Health Department
Contact Info: Lawrence Fay, Jr., Environmental Health Director (346-8463)
**SUBJECT: Approval of Local Agency Management Program (LAMP) and Adoption of
Ordinance for Onsite Wastewater Treatment Systems**

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Other Concurrence: N/A

Recommended Actions:

That the Board of Supervisors consider the following recommendations:

- a) On December 9, 2014, receive a presentation regarding the Environmental Health Services' Onsite Wastewater Treatment System Ordinance;
- b) Approve the introduction (First Reading) of an Ordinance amending Chapters 18, 18C, 24A and 19 of the Santa Barbara County Code by repealing sections 18-2, 18-4, 18-7, 18-7.1, 29-6 through 29-20, and amending Chapters 18C and Chapter 24A;
- c) Read the titles of the Ordinances into the record and waive full reading of the Ordinances;
- e) Set a hearing on the Administrative Agenda for January 6, 2015 to consider recommendations, as follows:
 - i) Accept and approve the Santa Barbara County Local Agency Management Program (LAMP) to establish County policy regarding Onsite Wastewater Treatment Systems within Santa Barbara County and direct the Environmental Health Services Director to submit the LAMP to the Regional Water Quality Control Board for approval;

ii) Consider the adoption (Second Reading) of an Ordinance amending Chapters 18, 18C, 24A and 29 of the Santa Barbara County Code by repealing sections 18-2, 18-4, 18-7, 18 7.1, 29-6 through 29-20, and amending Chapters 18C and Chapter 24A; and

iii) Find that the actions of accepting and approving the LAMP and amending the Ordinances is exempt from California Environmental Quality Act (CEQA) review pursuant to CEQA Guidelines section 15307 and 15308 because these actions are for the protection of natural resources and the environment.

Summary Text:

This item is on the agenda to adopt an Ordinance establishing Onsite Wastewater Treatment System (OWTS) regulations within the County Code. As a result of adopting the OWTS Ordinance, other areas of the County Code will become null and void while others will require minor edits. Chapters within the County Code affected by said Ordinance are: Chapter 18, Chapter 18C, Chapter 24A, and Chapter 29.

Additionally, Board approval is being requested for the formal acceptance of a Local Agency Management Program (LAMP) to establish County policy regarding the regulation of OWTS.

The LAMP must be approved by the Regional Water Quality Control Board (RWQCB) following approval by the Board of Supervisors. The LAMP and, subsequently, the implementing ordinance will not become operative until it has been reviewed and approved by the RWQCB. Should the RWQCB request substantive changes, Environmental Health Services (EHS) will bring the LAMP and ordinance back to your Board.

Background:

AB 885 (adopted in 2000) directed the State Water Resources Control Board (State Water Board) in consultation with other interested parties, to develop and adopt regulations and standards for the permitting and operation of onsite wastewater treatment systems. In 2012, pursuant to AB 885, the State Water Board adopted the Water Quality Control Policy for the Siting, Design, Operation and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy). The OWTS Policy set base standards and requirements for OWTS. Local jurisdictions may adopt standards that are different from those contained in the OWTS Policy by developing a LAMP. LAMP standards must provide the equivalent level of public health and water quality protection as the default state standards. The establishment of a LAMP will enable the County to address conditions specific to Santa Barbara County.

On September 10, 2013, your Board granted authorization for the Director of the Public Health Department to submit a letter of intent addressed to the Regional Water Quality Control Board (RWQCB) stating the County's intention to develop a LAMP.

The proposed LAMP includes substantial revisions to the County's OWTS Ordinance. The proposed revisions:

- Reflect comments and suggestions received from the advisory committees;
- Update the code to address new technologies and practices; and
- Codify certain administrative practices and policies.

Santa Barbara County initiated a LAMP to implement design and construction standards that address geologic and soil conditions typical of Santa Barbara County while providing public health and

environmental protection at least equal to Tier I standards. The proposed Ordinance addresses the use of “alternative” systems and supplemental treatment as a mitigation measure on severely constrained lots that would preclude the use of a standard OWTS. The use of an alternative system will require that the property owner obtain an operating permit with required ongoing maintenance, monitoring and reporting. The requirements for supplemental treatment provide an alternative mechanism to maintain the health of the environment.

Development of the LAMP and the associated Ordinance included a substantial level of participation. EHS organized several advisory committees that met multiple times to solicit input on both technical and policy level issues. Staff from the Central Coast Water Board (CCWB) attended several advisory committee meetings and they were consulted regularly during the development of the LAMP. In addition, general meetings, where all sectors of the community were invited, were held throughout the County to explain the LAMP and to answer questions.

EHS received two written comments from the Water Board following the receipt of the draft LAMP. In a letter dated July, comments received were editorial in nature or sought clarification of certain sections of the document. Overall the CCWB was “very pleased” with the document and the process used by the County to develop its management program. In a letter dated November 3, 2014 the Regional Board submitted additional comments regarding the draft LAMP. The second letter was more cautionary in tone advising that the Regional Board is unlikely to approve a LAMP that does not address existing onsite sewage systems located in specific problem areas.

Following the receipt of the November letter, the LAMP advisory committee was convened with participation of Regional Board staff to consider what was intended in the November 3rd letter, how the draft LAMP does or does not address the concern and to craft language that addresses the concern. The language contained in Section V, dealing with existing systems, and in Section VII, dealing with alternative systems, incorporates specific input from Regional Board staff that EHS believes would result in a more favorable response from the Regional Board. The committee recommended approval of the conceptual language below and voted to recommend that the Board of Supervisors move forward with the hearing as scheduled.

“ADVANCED PROTECTION MANAGEMENT PLAN

The State Policy stipulates that existing, new and replacement OWTS that are located near a water body that has been listed as impaired due to Nitrogen or pathogens pursuant to Section 303(d) of the Clean Water Act may be addressed by a TMDL and its implementation program, by special provisions contained in a Local Agency Management Program or by the specific requirements of Tier 3.

If a water body, including groundwater, in the county is designated by the Central Coast Water Board as “impaired” or significantly degraded as a result of the use of OWTS, Santa Barbara County will develop an Advanced Protection Management Program (APMP) in accordance with the established TMDL. In the absence of an approved TMDL, the APMP will be developed in close consultation with the Central Coast Regional Water Quality Control Board and may include but not be limited to requirements for supplemental treatment for existing systems and mandatory, routine inspections as determined in order to be consistent with the Policy.”

In mid-November, the Agricultural Advisory Committee raised some concerns about language in the draft LAMP related to the use of portable toilets. There were concerns that the drafted language limited occasional use. Alternative language was drafted as noted below:

“(A) Requirement for Adequate Wastewater Treatment and Dispersal

(1) Any structure, regardless of use, that produces wastewater shall have adequate wastewater treatment as required by the California Plumbing Code, as amended and adopted by the County of Santa Barbara in Chapter 10, Article IV. Wastewater treatment shall either be accomplished by means of an approved onsite wastewater treatment system or connection to a public sewer.

(2) The minimum daily design flow for residences shall be three hundred-seventy five gallons per day for up to three bedrooms. Each additional bedroom above three shall increase the daily design flow by seventy-five gallons per day.

(3) Portable toilets may be used only on a temporary or occasional basis.”

Following individual briefings with members of the Board of Supervisors, three additional recommendations were raised for Board of Supervisors consideration. The recommendations are:

- Mandatory Inspection When Property Transfers –
 - 18 C-3(A)(4) The seller of any property served by an OWTS shall, prior to transfer of title of the property, have the septic tank pumped and inspected by a Qualified Inspector. This service shall include all of the elements specified in 18C-7(A).
 - A report of the inspection shall be filed with the Administrative Authority. The report shall include all of the elements specified in 18C-7(B).
 - The pump out and inspection requirement may be waived by the Administrative Authority if the OWTS had been serviced in the previous twelve month period.
- Mandatory Inspections in Special Problem Areas –
 - 18 C-3(A)(5) Inspection and maintenance of any OWTS in an area designated by the Board of Supervisors as a Special Problems Area, as defined in Santa Barbara County Code section 10-15.2, for wastewater treatment and disposal shall be performed by a qualified inspector at a frequency determined by the Health Office based on type, size, age, system condition and system location but in no case less than once per year with the initial inspection to be completed no later than July 1, 2018.
 - If no accurate record of the OWTS has been prepared and filed with the Administrative Authority, the qualified inspector performing the service shall prepare and submit a reconciled record drawing to the Administrative Authority with the inspection report required by section 18C-7(B).
- Supplemental Treatment Required for Seepage Pits –

- 18 C-3 (A)(6) A supplemental treatment system for new or replacement OWTS shall be required under any one of the following conditions:
- (c) When the seepage pit method of wastewater disposal is used .on parcels of five acres or less or where the seepage pit has a maximum absorptive capacity greater than or equal to 8,000 gallons per day or absorptive rates between 500 and 1000 gallons per day.

Adoption of the OWTS Ordinance (Chapter 18C) will result in necessary changes to other chapters within the Santa Barbara County Code. In the interest of efficiency and clear public direction regarding official Santa Barbara County regulations, EHS is proposing County Code changes as outlined below:

Chapter	Needed Changes	Reason
Chapter 18: Health and Sanitation	Repeal Article I, Sections 18-2, 18-4, 18-7, and 18-7.1	Sections relating to “Privies”, “cesspools” and “potable water” will be replaced by updated sections within the new Chapter 18C – <i>Onsite Wastewater Treatment Systems</i> . Section relating to <i>County Code references to the local health officer</i> is outdated and no longer needed.
Chapter 18C: Environmental Health Services Division	Adopt new Chapter 18C, Article I – Onsite Wastewater Treatment Systems.	Chapter 18C has been reserved for Environmental Health Services since the repeal of Ordinance No. 4180 on 1/17/95.
Chapter 24A: Administrative Fines	Amend Sections 24A-1, 24A-2, 24A-3, and 24A-7	Sections updates required to reference the new Chapter 18C and to remove references to the repealed sections of Chapter 29.
Chapter 29: Storm Drains and Sanitary Sewers	Repeal Article II - <i>On-Site Sewage Disposal Systems</i> in its entirety.	Entire article shall be replaced by Chapter 18C – <i>Onsite Wastewater Treatment Systems</i>

Fiscal and Facilities Impacts:

Budgeted: N/A

Fiscal Analysis:

There is no fiscal impact associated with the LAMP or ordinance recommendations. The current Environmental Health fee structure for OWTS is consistent with many of the outlined changes. Thus, there will be no immediate changes to fees as a result of approving the recommendations. The Liquid Waste program fees, which include the OWTS, will be re-evaluated when EHS undertakes its regular review of all program fees. At that time, it is anticipated that one new OWTS category may be calculated and added to the Liquid Waste program fee schedule: a renewable operating permit for supplemental treatment.

Staffing Impacts:

There is no increase or decrease in staff associated with any Recommendation.

Special Instructions:

1. Request the Planning and Development Department to post the Notice of Exemption for the ordinance in the County Planning and Development Department at least six (6) days prior to consideration of the activity by the Board of Supervisors to comply with the County CEQA guidelines.
3. Request the Clerk of the Board to publish in a newspaper, within 15 days of passage of the ordinance, the ordinance along with names of members voting for and against the ordinance, in accordance with Government Code section 25124(a), stating that the ordinance will become operative upon Water Board approval of the LAMP. Once Water Board has approved the LAMP, PHD will notify the Clerk of the Board, which will then publish again in a newspaper the ordinance and a statement that the ordinance is now operative.
4. Return one original of the Adopted Ordinance and one Certified Minute Order to Public Health. Email PHDcu@sbcpd.org when materials are ready for pick-up.

Attachments:

1. Powerpoint presentation on LAMP, OWTS Ordinance and Related Code Amendments.
2. Ordinance Amending Santa Barbara County Code, Chapter 18 – Health and Sanitation, Chapter 18C – Environmental Health Services Division, Chapter 24A – Administrative Fines and Chapter 29 – Storm Drains and Sanitary Sewers.
3. Mark-Up Version of code in Chapters 18, 18C, 24A and 29 that is being changed.
4. 2014 Onsite Wastewater Treatment Systems, Local Agency Management Program (LAMP)
5. CEQA Notice of Exemption
6. Regional Water Board Letter dated July 9, 2014
7. Regional Water Board Letter dated November 3, 2014

Authored by:

Larry Fay, Environmental Health Services Director