



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: Planning & Development
Department No.: 053
For Agenda Of: 07/12/2011
Placement: Departmental
Estimated Tme: 30 Minutes
Continued Item: Yes
If Yes, date from: 05/10/2011
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Glenn Russell, Ph.D., Director, Planning & Development
Director(s)
Contact Info: Dianne Black, Director of Development Services

SUBJECT: Ordinance Amending Chapter 25, Petroleum Code

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

Recommended Actions:

That the Board of Supervisors:

1. Introduce (first reading) an Ordinance amending Chapter 25, Petroleum Code, of the Santa Barbara County Code, as it relates to the regulation of Onshore Petroleum Operations and Operators;
2. Continue to August 2, 2011 to:
 - a. Find that the Ordinance amending Chapter 25, Petroleum Code, is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15307 and 15308;
 - b. Approve the attached Notice of Exemption (Attachment C) and direct staff to file the Notice of Exemption with the County Clerk; and
 - c. Consider the adoption (second reading) of an Ordinance amending Chapter 25, Petroleum Code, as it relates to the regulation of Onshore Petroleum Operations and Operators, to be effective 30 days from the date of adoption.

Summary Text:

The Board of Supervisors amended the existing Petroleum Code on December 9, 2008 to incorporate a High Risk Operations Ordinance that would regulate high risk onshore oil operators. During a status update at the Board of Supervisors hearing on May 11, 2010, the Board of Supervisors directed staff to

revisit the High Risk Operations Ordinance to enhance its effectiveness. After multiple Board hearings and discussions with stakeholders from the environmental community and petroleum industry, staff provided the Board of Supervisors with recommendations to amend the existing ordinance at the Board hearing on May 10, 2011. At that hearing, the Board of Supervisors directed staff to return to the Board with an ordinance amendment that would:

1. Amend the High Risk Operation Definition (a);
2. Amend the High Risk Operation Definition (b);
3. Amend the Remediation Requirements for High Risk Operations; and
4. Make other minor amendments to the ordinance as necessary to effectively enforce the Petroleum Code.

Background:

The attached proposed Ordinance Amendment package is submitted based on Board direction provided during the May 10, 2011 Board hearing.

1. Amend the High Risk Operation Definition (a)

Under the Petroleum Code, Section 25-4, High Risk Operation Definition, subsection (a), a High Risk Operation is currently defined as those operations that have been in violation for more than 30 consecutive days, or more than 45 (cumulative) days during a twelve month period. During the May 10, 2011 Board hearing, staff was directed to amend this definition so that it is compatible with the County's Administrative Fine Ordinance (Chapter 24A).

The proposed amended definition under subsection (a), as directed, is as follows:

"Has been in violation of Section(s) 25-22, 25-23, 25-25, 25-26, 25-27, 25-28, 25-29, 25-30, 25-32, 25-35, 25-36, 25-37, 25-38, 25-39, ~~and~~ or 25-40 of this Chapter for more than 30 consecutive days ~~or 45 days~~ and resulted in the issuance of a Notice of Determination of Fines pursuant to Chapter 24A of the Santa Barbara County Code during the preceding 12 months"

2. Amend the High Risk Operation Definition (b)

Under the High Risk Operation definition, subsection (b), a facility may also be defined as a High Risk Operation if it has had three separate unauthorized releases that exceed 25 barrels (1050 gallons) for each incident. During the May 10, 2011 hearing, staff was directed to amend this definition to reduce the volumetric threshold and number of releases but limit the amounts to those outside of secondary containment.

The proposed amended definition under subsection (b), as directed, is as follows:

"...has had ~~three~~ two separate unauthorized releases of oil, produced water and/or other hazardous materials of a quantity not less than 25 15 barrels (~~1050~~ 630 gallons) other than within secondary containment for each incident during the preceding 12 months"

3. Amend the Remediation Requirements for High Risk Operations

Remediation requirements for High Risk Operations are covered under Section 25-43 of the Petroleum Code. As currently written, a high risk operation does not specify who is responsible for the preparation, management and implementation of the plan. Nor do the requirements specifically require a facility-wide audit to ensure that the facility is operating within normal, safe operating standards. During the May 10, 2011 hearing, staff was directed to amend this section to clarify the roles and to expand the remediation plan requirements to include an overall facility audit.

The proposed ordinance amendment package includes clarification of responsibilities as it relates to the preparation, management, and implementation of the remediation plan. Additionally, the amendment will also require a high risk operation to undergo a facility-wide audit performed by an independent third party approved by the Petroleum Administrator. The operator will be responsible for notifying the Petroleum Unit as each milestone in the plan is satisfied so that independent verification may occur.

4. Make other minor amendments to the ordinance as necessary

Other minor amendments are necessary to effectively enforce the Petroleum Code. During the May 10, 2011 Board hearing, the Board also directed staff to include these changes as part of the Ordinance amendment package. These changes include:

- 1) Striking outdated references to Article 79 of the Fire Code;
- 2) Clarifying reference to the Petroleum Administrator under section 25-6 Permit Procedures;
- 3) Adding definitions for “Containment”, “Secondary Containment”, “Hazardous Materials”, and “Owner” to section 25-4 Definitions;
- 4) Ensuring that section 25-7 Fees allows for full recovery of costs for all drilling permit applications submitted for review; and
- 5) Correcting a code section reference under Section 25-30 Secondary and Enhanced Operations.

CEQA Exemption

The proposed Ordinance amending Chapter 25 is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15307 (actions by regulatory agencies for protection of natural resources) and section 15308 (actions by regulatory agencies for protection of the environment). The proposed Ordinance amendment addresses the regulation of Onshore Petroleum Operations that are considered “high risk” to the environment and to the County’s natural resources and such actions are categorically exempt from CEQA review.

Performance Measure:

N/A

Fiscal and Facilities Impacts:

Budgeted: Yes

Costs for preparation of this staff report and ordinance amendment are funded by permit revenue in the Department’s Building and Safety Division, page D-338 of the FY 2010-2011 budget, and page D-320 of the FY 2011-2012 budget.

Special Instructions:

1. The Clerk of the Board shall notice the proposed ordinance amendment in a newspaper of general circulation in the County of Santa Barbara once at least five days prior to the first reading and again in accordance with section of the ordinance within 15 days after its passage.
2. The Clerk of the Board shall send a copy of the signed and numbered ordinance and minute order to the Planning & Development Department, attention Linda Liu.

Attachments:

- A. Ordinance amending Chapter 25 (strikeout/underline format)
- B. Ordinance amending Chapter 25 (clean copy)
- C. Notice of Exemption

Authored by:

Linda Liu, Planning & Development

cc:

Glenn Russell, Ph.D., Director, Planning & Development
Dianne Black, Director, Development Services, Planning & Development
Massoud Abolhoda, Deputy Director, Building & Safety, Planning & Development
Jeff Thomas, Petroleum Unit Supervisor, Planning & Development
Kevin Ready, Senior Deputy County Counsel
Michael Ghizzoni, Chief Assistant County Counsel