



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: May 2, 2017
Placement: Set Hearing (5/2/2017)
Departmental (6/06/17:
First Reading)
Administrative (6/20/17:
Second Reading)
Estimated Time: 20 minutes on 6/06/17
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Carrie Topliffe, Interim Director, Public Health Department
Director
Contact Info: Larry Fay, Environmental Health Services Director, 346-8463
**SUBJECT: Ordinance Establishing Fees for Extended Producer Responsibility Stewardship
Program for Safe Drug Disposal**

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors consider the following recommendations:

On May 2, 2017, set a public hearing on the Departmental Agenda of June 6, 2017 to consider recommendations regarding an Environmental Health Services Ordinance.

On June 6, 2017:

- a) Receive and file a presentation regarding the proposed Ordinance in accordance with Chapter 18C, Article II Environmental Health Services of the Santa Barbara County Code;
- b) Approve the introduction (First Reading) of an Ordinance in accordance with Chapter 18C, Article II Environmental Health Services of the Santa Barbara County Code establishing fees for Extended Producer Responsibility Stewardship (EPRS) for the Collection and Disposal of Unwanted Covered Drugs;
- c) Read the title of the Ordinance into the record and waive full reading of the Ordinance; and
- d) Continue the hearing to the Administrative Agenda for June 20, 2017 to consider recommendations.

On June 20, 2017:

- a) Consider and approve the adoption (second reading) of an Ordinance establishing the Extended Producer Responsibility Stewardship (EPRS) fee schedule effective thirty days after final passage; and
- b) Determine that the recommended actions are not a Project and are exempt pursuant to CEQA Guideline Sections 15378(b)(4) and 15378(b)(5) because the actions are administrative activities of a local government and government fiscal activities which do not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment and direct staff to file a notice of exemption (Attachment B).

Summary Text:

On June 21, 2016, your Board adopted Chapter 18C, Article II of the Santa Barbara County Code to establish requirements that any manufacturer or producer of a covered drug that is sold or distributed in Santa Barbara County must participate in a Stewardship Plan that provides convenient, accessible means whereby consumers can safely dispose of unused, unwanted covered drugs. Chapter 18C, Article II states that all costs associated with the Stewardship Plan, as well as the costs associated with the actual collection and disposal of unwanted drugs, shall be borne by the producers. Santa Barbara County's Environmental Health Services (EHS) is responsible for receiving, reviewing and approving each Stewardship Plan, and Plan amendments, as well as ensuring that approved Plans are being fully implemented. Fees for producers and manufacturers of covered drugs are necessary to cover the costs associated with this review, approval, and oversight.

Background:

Prescription medication, when used properly, enables us to live healthier and longer lives. The accumulation of unused household medication, however, increases the opportunity for misuse, abuse and diversion. Your Board adopted Chapter 18C, Article II of the Santa Barbara County Code to ensure safe disposal options for unused, unwanted drugs for the residents of Santa Barbara County.

Pursuant to Chapter 18C, Article II of the Santa Barbara County Code any manufacturer or producer of a covered drug that is sold or distributed in Santa Barbara County is responsible for the collection and disposal of unused and unwanted covered drugs. The manufacturer or producer must develop and operate, either individually or jointly with other producers, a *Stewardship Plan* (Plan) that describes how unwanted/unused covered drugs will be collected. Alternatively, a manufacturer or producer may enter into an agreement with a stewardship *organization* that implements and executes a Plan on the manufacturer or producer's behalf.

Plans must be approved by the EHS Director before the administrator of the Plan begins collecting unwanted/unused drugs. Any changes to a Plan, subsequent to its initial approval, must also be approved by the EHS Director. In addition, each Plan administrator is required to submit periodic reports to EHS that summarize the activities of the previous reporting period. The manufacturer, producer, or stewardship organization, is responsible for the costs associated with EHS's review of new Stewardship Plans and Plan amendments. These entities are also responsible for the costs associated with the ongoing oversight needed to ensure Plan compliance with the requirements set forth in Chapter 18C, Article II.

Since this is a new program for Santa Barbara County, and a relatively new concept regarding drug disposal around the nation, there is very little data to estimate Plan review costs. EHS reviewed adopted fees from San Francisco, Santa Clara County and Marin County for comparison purposes. The first three counties have adopted a fixed fee approach based on estimated time to review, while Marin County, a

benchmark county, has adopted an hourly billing approach. Given the difficulty in estimating the time that will be required, EHS recommends using an approach similar to Marin County whereby any entity that submits a Plan for approval will be billed for the actual time and cost for the Plan review and program oversight.

The recommended fee ordinance is similar to Marin County’s by which a deposit is collected at the time a review is requested and additional hours will be invoiced at \$136.00 per hour. If the estimated deposit hours are not used, a refund will be issued to the submitting entity.

Also similar to Marin County, an annual operating fee for reasonable costs to administer the program will be implemented. The \$119 fee is calculated using the cost of the program (\$42,350) divided by the count of producers (357). Each year, Marin adjusts the annual operating fee, as needed, to reflect the total number of Producers. Environmental Health Services is proposing the same method and the following table summarizes all of the fees proposed with this action:

	Deposit Fee	Annual Fee
Plan with 6 or more Producers (20 hours)	\$2,720	
Plan with 1-5 Producers (4 hours)	\$ 544	
3-Year Update Plan with 6 or more Producers (4 hours)	\$ 544	
3-Year Update Plan with 1-5 Producers (2 hours)	\$ 272	
Annual Operating		\$119

Section 18C-26 authorizes the Board of Supervisors to adopt fees for:

- Review of a proposed stewardship plan;
- Review of re-submittals of a stewardship plan;
- Review of changes to a stewardship plan;
- Review of an updated stewardship plan;
- Review of a petition for approval to use an alternative final disposal technology;
- Any other applicable fees that may be recommended by the Director and approved by the Board of Supervisors; and
- An annual operating fee.

The Plan fees are based on a previously Board-approved \$136 hourly rate. This program will be brought back to the Board after sufficient history and experience is gained with the program to adjust the fees and deposits accordingly, including incorporating any recommended changes to the hourly rate. The Auditor Controller has reviewed and approved the methodology used for the fee ordinance in order to determine that the fees do not exceed the actual costs in performing the services.

Fiscal and Facilities Impacts:

Budgeted: Budgeted: 2016-2017 yes; 2017-2018 yes

Fiscal Analysis and Staffing Impacts:

When your Board adopted Chapter 18C, Article II of the Santa Barbara County Code on June 21, 2016, the preliminary plan was estimated at a start-up cost of \$67,650 for a 0.50 FTE Departmental Business

Specialist over a 12 month period. Through better understanding of the new program, and with the department working on efficiencies, the start-up is now estimated at \$44,000, a savings of \$23,650.

For FY 2016-2017, EHS has hired part-time extra help staff to: Assist with setting up the program; research how other counties are administering and charging for Plan reviews; coordinate with pharmacies and producers to establish an inventory of producers who distribute in Santa Barbara County; collect, review, and recommend approval of Stewardship Plans; oversee Stewardship Plan implementation and Plan amendments. The \$44,000 start-up cost estimate is funded by existing salary savings.

For FY 2017-2018, the program is included in the recommended budget and continues with utilizing part-time extra help. The program is budgeted at .50 FTE for July-December 2017 and .25 FTE for January-June 2018. If approved by your board, \$42,350 will be funded by the adopted fee schedule. After FY 2017-2018, it is anticipated the ongoing program will utilize a .15 FTE existing EHS Specialist for maintaining the program and no extra help will be needed.

Special Instructions:

Publish the attached legal notice (Attachment A) of this hearing pursuant to Section 6066 of the Government Code in a newspaper of general circulation in Santa Barbara County 10 days prior to the hearing and again 5 days prior to the hearing and shall make available information as required per Section 54986 of the Government Code.

Attachments:

- A) Public Notice
- B) Notice of CEQA Exemption

Authored by:

Lawrence Fay, Jr., Director, Environmental Health Services