



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 4/5/2016
Agenda Placement: 10A

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors

FROM: Christine M. Secheli for David Morrison - Director
Planning, Building and Environmental Services

REPORT BY: John Kara, Jr, Environmental Health Manager - 259-8208

SUBJECT: Presentation of Draft Local Agency Management Program and proposal for continued local control over winery process wastewater treatment and disposal.

RECOMMENDATION

Director of Planning, Building and Environmental Services requests Board direction on submittal of draft Local Agency Management Program documents to San Francisco Bay Regional Water Quality Control Board (RWQCB) as well as direction to apply with the RWQCB to become a Certified Third Party Provider in order to retain local jurisdiction over high strength winery process wastewater.

EXECUTIVE SUMMARY

Assembly Bill 885, signed by Governor Davis in 2000 required the State Water Resources Control Board to create an Onsite Wastewater Treatment System (OWTS) Policy for the regulation and management of OWTS installations and replacements throughout the state. After many delays the policy was created and became effective on May 13, 2013. The policy uses a risk-based approach and allows the local jurisdiction to select a "Tier" for the regulation of OWTS. Staff recommends selecting Tier 2 (explained in more detail in the Background below) known as the "Local Agency Management Program" or LAMP. The LAMP allows the local jurisdiction to propose its own customized OWTS program, allowing for a wider variety of OWTS design, construction and operation options.

Because the OWTS policy only authorizes subsurface disposal of domestic waste, a separate but parallel approval process is required for Napa County to retain jurisdiction over high strength winery process wastewater. That process requires Napa County to apply to the Regional Water Quality Control Board under a newly proposed Winery General Order as a Certified Third Party Provider.

Planning Building and Environmental Services (PBES) staff is seeking direction today from the Board to submit Napa County's LAMP to the RWQCB for review and approval, as well as direction to apply to become a Certified Third Party Provider with the RWQCB. Upon approval of the LAMP by the RWQCB, and approval by the RWQCB of

the County as a Certified Third Party Provider, PBES will return to the Board for formal adoption of a single comprehensive regulatory package to be used for both domestic and winery high strength wastewater.

The Napa County LAMP consists of three parts: the amended County Code Chapter 13, Onsite Wastewater Treatment System Technical Standard, and Additional Considerations.

PROCEDURAL REQUIREMENTS

1. Staff reports.
2. Public Comments.
3. Motion, second, discussion and vote on the item.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable. The draft LAMP and Certified Third Party Provider program consists of actions being taken by a regulatory agency as authorized by State law to assure the maintenance, restoration or enhancement of natural resources and/or the environment. As a result the proposal is Categorically Exempt under Class 7 (Section 15307 of the Public Resources Code) and Class 8 (Section 15308 of the Public Resources Code).

BACKGROUND AND DISCUSSION

Onsite Wastewater Treatment Systems (OWTS) are used throughout the state as a means to dispose of wastewater from residences and businesses without access to centralized wastewater treatment systems. Until recently, there were no statewide requirements for siting, design, operation, and maintenance of these systems and requirements were left up to each local Regional Water Quality Control Board or local agency to develop and implement.

State legislation enacted in 2000 (Assembly Bill 885), directed the State Water Resources Control Board (SWRCB) to develop regulations or standards for domestic OWTS to be implemented by qualified local agencies. After a failed attempt in 2005 and a lawsuit in 2011 the SWRCB finally issued those regulations in 2012 as its "Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems" (OWTS Policy), and received approval from the California Office of Administrative Law. The policy became effective on May 13, 2013.

The OWTS Policy establishes fundamental standards for both conventional and alternative OWTS that are consistent with many of the standards already applied in Napa County. The OWTS Policy uses a risk-based tiered approach to provide local agencies with several options for the regulation of OWTS. Tier 1 is the default plan. It consists of SWRCB prescribed requirements for siting, design and operation of conventional OWTS. Tier 2, also known as the Local Agency Management Program (LAMP), allows the local jurisdiction to propose its own customized OWTS program, allowing for a wider variety of OWTS design, construction and operation options while

still meeting the water quality objectives of Tier 1. Tier 3 is not applicable as it relates to the Total Maximum Daily Load of pathogens for impaired waterways, for which a plan is already in place for the Napa River. Tier 4 refers to corrective action for failing systems to bring them into compliance with Tier 1, 2 or 3.

Tier 2 (LAMP) is the approach being proposed by Napa County which will provide the most flexibility and local control.

The Napa County LAMP consists of three parts:

1. Amended County Code Chapter 13
2. Napa County Onsite Wastewater Treatment System Technical Standards (Napa County OWTS Technical Standards)
3. Additional Considerations

Because Napa County has had a fairly robust and technically sound onsite wastewater program for many years, the LAMP does not make many substantive changes to our current standards. There are a few technical changes required as a result of the State Policy, but most of the changes are codifying current practices, organizing program documents and addressing formatting issues in existing documents.

PBES staff prepared draft documents and contracted with a consulting firm specializing in onsite wastewater treatment systems to conduct a peer review. Additionally staff presented the draft LAMP to a group of 26 engineers, designers, contractors, regulators and other interested parties at a stakeholder meeting on July 22, 2015 and to 30 attendees at a stakeholder meeting on January 13, 2016. PBES staff presented this information to wine industry representatives on January 14, 2016 and February 3, 2016. Input from the peer review process as well as input provided by attendees of the stakeholder and wine industry meetings were evaluated and incorporated into the documents where appropriate. The draft documents have also been posted on our webpage, and input from the public accepted throughout the process.

The draft LAMP was also sent to the Public Works Directors in each city and town since they default to County standards when public sewer is not available. To date no comments have been received.

The timeline for the LAMP approval process:

- | April 5, 2016: Presentation of LAMP to the Board of Supervisors for direction.
- | May 2016: Submittal of LAMP to the San Francisco Bay Regional Water Quality Control Board for approval. The Regional Board has 90 days to determine completeness of submittal.
- | From Summer 2016 until mid 2017: The Regional Board has 12 months to act on completed LAMP, or it goes to State Water Resources Control Board for approval.
- | No later than Fall/Winter 2017: Upon approval by the Regional Board, staff will return to Board of Supervisors for final approval of LAMP.

All steps must be completed within 60 months of the effective date of the policy or May 2018. Please keep in mind, these are mandated action dates contained within the Policy.

Discussion regarding the regulation of winery process wastewater:

Napa County has been regulating subsurface disposal of winery process wastewater by written authority from the RWQCB since August 1979 and surface disposal of winery process wastewater by Memorandum of Understanding with the RWQCB since November 1982.

The State OWTS Policy only authorizes subsurface disposal of domestic strength wastewater and establishes minimum requirements for the permitting, monitoring, and operation of OWTS. The Policy does not allow a local jurisdiction to have regulatory authority over high strength wastes such as winery process wastewater. The County and the RWQCB tried to work out a mechanism by which winery process wastewater could be included in the LAMP but determined that it is not legally possible.

Due to the history of winery wastewater permitting in Napa County and the success and continual improvement of the program over time, the RWQCB understands the value of allowing the County to retain regulatory authority over the program. It is proposed that this can be accomplished through the Winery General Order process, with Napa County applying to be a Certified Third Party Provider for the RWQCB, rather than as a part of the LAMP.

Because of the requirements set forth in the State OWTS policy, all wineries will have to file a Report of Waste Discharge with the RWQCB or file under the proposed General Order. The question posed to the wine industry was whether it is better to retain local control as related to plan review and permitting of winery process wastewater which would require dual permitting (both RWQCB and Napa County) or whether it is better or preferred to return jurisdiction to the RWQCB. This issue was discussed with stakeholders and winery groups and the general consensus was that local jurisdiction was preferred provided the regulatory authority is clear and the dual permitting with the RWQCB is equivalent to a registration rather than a permit. It was concluded that retaining local control is a better alternative because the end result will be continued protection of the groundwater, surface water and the environment and will allow for more timely and responsive processing of applications. Industry representatives urged, and staff agrees that the conditions under which local authority would be granted should to be clearly set forth and the expectations of the RWQCB be defined upfront.

With this approach, there will be two separate but parallel approval processes: One for the regulation of winery process wastewater as a Certified Third Party Provider under the Regional Board Winery General Order and one for the regulation of domestic wastewater through the County's LAMP. Once authorized for both, the permitting, construction and operating requirements will be included in one regulatory framework and one set of documents comprised of County Code and the referenced Technical Standards.

The alternative although it is not recommended, is for Napa to refrain from applying under the Winery General Order as a Certified Third Party Provider and instead cede all regulatory authority over winery process wastewater to the RWQCB. This option would place all wineries under the direct permit review of the RWQCB, with no involvement by the County. Both staff and stakeholders believe this would result in a loss of local control and would create additional processes and costs for local business.

Summary of Major Changes to Napa County Code Chapter 13.16 (Attachment A):

- | Section 13.16.010- Scope of Division II provisions- a section was added to recognize the option of retaining jurisdiction over winery process wastewater.
- | Most technical information has been removed from the code and included instead in a consolidated technical document.
- | Requirements for existing sewage disposal systems related to building projects has been clarified and simplified.
- | Groundwater monitoring- direct observation will be required in areas of known high groundwater.
- | Additional increased setbacks required by State Policy as related to public water wells and intake have been added to County Code:
 - | 150 feet to public water supply well
 - | 400 feet to high water mark of public surface water supply if the system is located within 1200 feet of the water system intake, 200 feet if the wastewater system is more than 1200 feet to the water intake line (which is the current setback).
- | A section was added related to ground mounted solar panels located over or near septic systems.

- | A repair and variance section was added to code as required by State Policy.
- | For clarity, domestic holding tank systems have been separated from hold and haul systems by adding a new Chapter, 13.54 "Winery Process Wastewater Hold and Haul Systems" to the code.
- | The section related to the subdivision of parcels has been moved to the end of that Chapter.

Summary of Attachment B Napa County Onsite Wastewater Treatment System (OWTS) Technical Standards:

The only technical document concerning wastewater systems that is currently incorporated into the County Code is that for alternative sewage disposal systems. The LAMP proposes to remove technical information from the Code and incorporate it into a revised all-inclusive technical document with the following format:

- | Part I- Site Evaluation, Sewer Line, and Wastewater Tank Requirements
- | Part II- Design, Construction and Installation of Conventional Sewage Treatment Systems
- | Part III- Design, Construction and Installation of Alternative Sewage Treatment Systems (this was the original technical document which is being updated and amended based on current industry standards)
- | Part IV- Design, Construction and Installation of Winery Process Wastewater Systems. While this would not be submitted as part of our LAMP, it is included as part of our local program should Napa be certified by the RWQCB to continue oversight of this program in the future.

Attachment C Additional Considerations:

Part three, Additional Considerations, addresses the additional Tier 2 Policy requirements that are not specifically addressed by the ordinance or technical document, confirms our LAMP meets the expectations of the Policy, and acknowledges the responsibilities that are being placed on the local agency. Included in this document are provisions for:

- | Required monitoring and annual reporting
- | Data collection
- | Evaluation of data looking for trends; and
- | Use of identified trends to modify the LAMP as determined necessary (at five year intervals)

The document further serves the purpose of identifying where certain policy requirements can be found in our ordinance or technical document. This was done for ease of review by the RWQCB and to ensure all components are included and addressed as needed.

SUPPORTING DOCUMENTS

- A . Napa County Code Chapter 13.16
- B . Napa County Onsite Wastewater Treatment Systems Technical Standards
- C . Additional Considerations

CEO Recommendation: Approve

Reviewed By: Helene Franchi