



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: 19-0294, **Version:** 1

- a. Introduce, waive reading, and consider an ordinance of the County of Monterey, State of California, amending Chapter 15.04 of the Monterey County Code and adding Chapter 15.06 to the Monterey County Code relating to point-of-use and point-of-entry water treatment systems; and
- b. Set May 14, 2019, at 10:30 as the date and time for adoption of the ordinance.

Proposed CEQA action: Categorically exempt from environmental review pursuant to Sections 15301, 15302, 15303, 15307, and 15330 of the California Environmental Quality Act ("CEQA")

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Introduce, waive reading, and consider an ordinance of the County of Monterey, State of California, amending Chapter 15.04 of the Monterey County Code and adding Chapter 15.06 to the Monterey County Code relating to point-of-use (POU) and point-of-entry (POE) water treatment systems; and
- b. Set May 14, 2019, at 10:30 as the date and time for adoption of the ordinance.

SUMMARY:

The Monterey County Health Department-Environmental Health Bureau regulates small water systems, including local small water systems with two to four service connections and state small water systems with five to fourteen service connections. Of these 970 systems, approximately 235 systems are out of compliance with primary drinking water standards due to excessive levels of nitrite, arsenic, and fluoride. This contaminated water poses a health risk to the public. The proposed ordinance provides the option under certain circumstances of point of use or point of entry treatment to meet primary drinking water standards, as described further below. In light of public testimony and Board direction on a prior draft of the ordinance, staff is returning to the Board with a revised ordinance that takes account of the input received.

DISCUSSION:

The state declared the importance of meeting safe drinking water standards as identified with the passage of Assembly Bill (AB) 685, making California the first state in the nation to legislatively recognize the human right to water. State Water Code section 106.3 statutorily recognizes that "every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes." The human right to water extends to all Californians, including disadvantaged individuals and groups and communities in rural and urban areas. On December 4, 2018, the Monterey County Board of Supervisors recognized this human right to water. (Board of Supervisors' Resolution. No. 18-385.)

Current options to comply with providing uncontaminated water include consolidation with a neighboring compliant water system, drilling a new well, or installation of a centralized treatment system on an existing well. The problems encountered with these options include a nearby compliant water system is not available, a new well might not be successful, and centralized treatment systems can be very costly and complex to install and maintain. These options are expensive and often result with the public relying on bottled water or unsafe tap water. A cost analysis survey of bottled water use is included with this report as Attachment 3.

The state Legislature also adopted legislation to allow public water systems (15 or more service connections) to use point of use (POU) and point of entry (POE) treatment temporarily under certain circumstances and to

authorize the State Water Resources Control Board (“SWRCB”) to establish POU/POE regulations. The SWRCB has since developed regulations to overcome challenges with individual POE and POU treatment systems.

The subject ordinance would amend Chapter 15.04 to enable a water system of 15 to 199 connections to utilize POU or POE in conformity with the recent changes to state law and regulation. This ordinance requires the operator of such water systems to obtain a water system permit amendment, renewable annually, under Section 15.04.070, which is issued by the Environmental Health Bureau.

The ordinance also adds Chapter 15.06 to provide the choice of POU/POE treatment for domestic water systems with two to fourteen service connections. The ordinance sets standards for treatment, operations and maintenance, system monitoring, recordkeeping and compliance for water systems of two to fourteen connections who choose POE/POU treatment to become compliant with applicable primary drinking water standards. Compliance with these standards is enforced through inspection by the Environmental Health Bureau and the enforcement provisions of the Monterey County Code. Additionally, the ordinance also provides an option for POU/POE treatment for owners of existing lots of record who are seeking approval of new development but whose water from an onsite private well or existing water system does not meet drinking water standards required for issuance of a construction permit.

Public information sessions were held in July and August of 2018 throughout the County to inform stakeholders of the earlier proposed ordinance and allow a platform for their questions to be presented and concerns to be addressed. On September 18, 2018, the prior version of the ordinance was introduced for consideration by the Board of Supervisors who directed staff to continue to review and revise the ordinance based on public feedback and subsequently submit the amended ordinance to key community stakeholders before returning to the Board of Supervisors for consideration and adoption. Staff met with community stakeholders on October 2nd, 4th, 16th and 18th, 2018. Having taken into consideration the concerns and suggestions identified by stakeholders and after a thorough systems analysis, staff has revised the ordinance. On April 9, 2019, the draft amended ordinance was distributed to stakeholders to inform them of these amendments. The Health Department’s Environmental Health website also has a page dedicated to the proposed ordinance as well as frequently asked questions and facts for public viewing. The proposed ordinance is presented for the Board’s consideration at the meeting on April 30 and proposed for adoption on May 14, 2019.

CEQA

The ordinance includes a finding that the ordinance is categorically exempt from environmental review under sections 15301, 15302, 15303, 15308, and 15330 of the California Environmental Quality Act (CEQA) Guidelines. Consistent with Section 15301, 15302, and 15303 of the CEQA Guidelines, a permitting process for point-of-use (“POU”) and point-of-entry (“POE”) treatment systems will result in minor alterations to existing facilities involving negligible or no expansion of use beyond that which is presently existing or installation of small new equipment. Additionally, the ordinance is categorically exempt under Section 15308 because it is an action taken by the County to assure the enhancement and protection of the environment and involves procedures for protection of the environment and public health by authorizing and regulating POU and POE treatment of drinking water to meet drinking water standards. Lastly, the ordinance is categorically exempt under Section 15330 because it creates a permitting process for the use of POU and POE water treatment systems to treat impacted water systems until funding becomes available for long term water treatment solutions.

This work supports the Monterey County Health Department 2018-2022 Strategic Plan Initiative 2. to enhance community health and safety through prevention. It also supports one or more of the ten essential public health

services, specifically, number 2. diagnose and investigate health problems and health hazards in the community, number 3. inform, educate and empower people about health issues and number 5. develop policies and plans that support individual and community health efforts.

OTHER AGENCY INVOLVEMENT:

The State Water Resources Agency Board, and Monterey County Water Resources Agency. County Counsel has approved the ordinance as to form.

FINANCING:

There is no financial impact with the acceptance of this report.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

☐Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

☐Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

☒Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

☐Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

☐Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Robin Kimball, Management Analyst, 1297

Approved by: Elsa Jimenez, Director of Health, 4525

Attachments:

Draft ordinance (final) in on file with the Clerk of the Board

Draft ordinance (redlined against existing County Code) is on file with the Clerk of the Board

Bottled Water Cost Analysis is on file with the Clerk of the Board