

DEPARTMENT:
Public Health

BY:
Charles B. Mosher, MD, HO

PHONE:
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RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes___ No_x_)

Recommend resolution redesignating the Mariposa County Health Department as the Local Enforcement Agency (LEA) for County; discussion regarding reappointment of independent hearing panel for Solid Waste enforcement; possible action by resolution reappointing hearing panel (a member of Board of Supervisors, Mark Gallagher, member at large, and Robert Tremewon, technical expert).

State regulations governing Solid Waste Enforcement call for a mechanism to allow hearings (see Section 18060 and require that, when a local governing board is also responsible for enforcement, an independent hearing panel should be appointed (Section 18081(d)(2)).

The State will be inspecting the LEA (Health Department) at the end of May or early June to determine whether to allow the County to continue functioning as LEA. These actions are recommended to have the LEA's paperwork current and in order at the time of that inspection.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

Resolutions 92-191 designated the County Health Department as the LEA for the County and appointed an independent hearing panel. Reappointment of the panel members by the current Board is appropriate.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Allow State Waste Management Board to do LEA function at an unknown cost.

COSTS: (X) Not Applicable
A. Budgeted current FY \$ _____
B. Total anticipated costs \$ _____
C. Required additional funding \$ _____
D. Internal transfers \$ _____

SOURCE: () 4/5ths Vote Required
A. Unanticipated revenues \$ _____
B. Reserve for contingencies \$ _____
C. Source description: _____
Balance in Reserve for Contingencies,
if approved: \$ _____

SPECIAL INSTRUCTIONS:
List the attachments and number
the pages consecutively:

CLERK'S USE ONLY:
Res. No.: 95-219 Ord. No. _____
Vote - Ayes: 4 Noes: _____
Absent: 2 Abstained: _____
() Approved () Denied
(X) Minute Order Attached () No Action Necessary

The foregoing instrument is a correct copy of
the original on file in this office.
Date: _____
ATTEST: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By: _____
Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:
This item on agenda as:
 Recommended
 Not Recommended
 For Policy Determination
 Submitted with Comment
 Returned for Further Action
Comment: _____
A.O. Initials: [Signature]

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: DR. CHARLES MOSHER, County Health Officer
FROM: MARGIE WILLIAMS, Clerk of the Board *MW*
SUBJECT: Resolution Redesignating the Mariposa County Health Officer as the Local Enforcement Agency (LEA) for the County; Discussion Regarding Reappointment of Independent Hearing Panel for Solid Waste Enforcement; and the Reappointment of a Hearing Panel; Resolution Number 95-219

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,
ADOPTED THIS Order on May 16, 1995

ACTION AND VOTE:

Dr. Charles Mosher, County Health Officer;
Resolution Redesignating the Mariposa County Health Department as the Local Enforcement Agency (LEA) for County; Discussion Regarding Reappointment of Independent Hearing Panel for Solid Waste Enforcement; Possible Action by Resolution Reappointing Hearing Panel (a Member of the Board of Supervisors; Mark Gallegher, Member At-Large; and Robert Tremewon, Technical Expert)
BOARD ACTION: Following discussion, (M)Balmain, (S)Reilly, Res. 95-219 adopted redesignating the Health Department as the LEA; and Mark Gallegher and Robert Tremewon were reappointed to the Hearing Panel; and Supervisor Stewart was appointed to the Hearing Panel to represent the Board/Ayes: Reilly, Balmain, Stewart, Parker; Excused: Taber.

cc: Supervisor Stewart

(3) an organizational chart documenting the organization of the designated agency;

(4) an identification of each required hearing panel pursuant to Section 18060 of this Chapter; and

(5) a tabulation of city resolutions including the listing of all city names, their populations, and the percent of cities and populations approving the designation for the jurisdiction.

(d) For any solid waste facility to which the provisions of Chapter 6.5 (commencing with section 25100) of Division 20 of the Health and Safety Code apply, the local governing body shall designate either the State Department of Health or the county health entity, in accordance with the department's decision and the board's concurrence.

NOTE: Authority cited: Sections 40502, 43020 and 43200, Public Resources Code. Reference: Sections 43200 and 43203-43207, Public Resources Code.

HISTORY

1. Amendment of section heading and text filed 12-17-91; operative 12-17-91 pursuant to Government Code section 11346.2(d) (Register 92, No. 13).

§ 18052. Redesignation of Existing LEAs.

(a) LEAs existing on August 1, 1991, which are the sole LEA in their jurisdiction, currently carrying out a comprehensive solid waste management program, and meeting all designation requirements pursuant to 14 CCR 18051, may provide to the board, certified copies of their existing designation resolutions accompanied by a letter of affirmation from the cities and county to fulfill the requirement of 14 CCR 18051(c). Any changes in the LEA's existing jurisdictional authority must be established with the appropriate resolutions pursuant to Public Resources Code Section 43203 and 14 CCR 18051.

(b) Within 60 days of the effective date of this Chapter, each existing LEA which intends to be redesignated and seek certification(s) shall notify the board in writing.

(1) Each local governing body that intends to redesignate an existing LEA, after the effective date of this Chapter, shall submit to the board a complete designation information package pursuant to Section 18051(b) and (c) of this Chapter. Each redesignated LEA shall submit to the board a complete request for certification(s) in the form of an Enforcement Program Plan (EPP) pursuant to Article 2.1, and Section 18077 of this Chapter by the schedule below:

(A) Local governing bodies of or within a county of over 500,000 population by 90 days from the effective date of this Chapter.

(B) Local governing bodies of or within a county with a population between 500,000 and 100,000 by 150 days from the effective date of this Chapter.

(C) Local governing bodies of or within a county of under 100,000 population by 180 days from the effective date of this Chapter.

NOTE: Authority cited: Sections 40502, 43020 and 43200, Public Resources Code. Reference: Sections 43200 and 43203-43207, Public Resources Code.

HISTORY

1. Repealer and new section filed 12-17-91; operative 12-17-91 pursuant to Government Code section 11346.2(d) (Register 92, No. 13).

§ 18053. Distribution of Notice of Designation.

NOTE: Authority cited: Sections 40502, 43020 and 43200, Public Resources Code. Reference: Section 66796.21, Government Code.

HISTORY

1. Repealer filed 12-17-91; operative 12-17-91 pursuant to Government Code section 11346.2(d) (Register 92, No. 13).

§ 18054. Review of Designation.

(a) Upon receipt of the designation information package, pursuant to Sections 18051 and 18052, the board staff shall, within 45 days, review the designation and notify the local agency and the designating local governing body in writing whether or not the proposed designation information package is complete and accepted by the board staff. Should the designation information package be incomplete, the local governing body shall provide to the board the specific missing information thereby starting a new 45 day review period from the date of resubmittal.

(b) The board shall use the following criteria when reviewing designations:

(1) the designated agency shall demonstrate capability and experience in the enforcement of public health and environmental regulations; and

(2) the designation and certification must be consistent with the enforcement scheme contemplated in the Countywide Integrated Waste Management Plan upon its adoption and the LEA's EPP.

(3) The board may elect to issue temporary LEA certifications and/or designation approval for specific time periods.

NOTE: Authority cited: Sections 40502, 43020 and 43200, Public Resources Code. Reference: Sections 43200, 43203 and 43204, Public Resources Code.

HISTORY

1. Amendment filed 12-17-91; operative 12-17-91 pursuant to Government Code section 11346.2(d) (Register 92, No. 13).

§ 18055. Effective Date of Designation.

(a) After August 1, 1992, no designated agency shall be, nor shall any designated agency have the powers of, a local enforcement agency pursuant to this chapter until the designation is approved by the board and upon certification(s) issued by the board.

(b) Those sole LEAs existing on August 1, 1991, shall have their designation(s) reapproved by the board upon issuance of their certification(s).

NOTE: Authority cited: Sections 40502, 43020 and 43200, Public Resources Code. Reference: Sections 43200-43219, Public Resources Code.

HISTORY

1. Amendment filed 12-17-91; operative 12-17-91 pursuant to Government Code section 11346.2(d) (Register 92, No. 13).

§ 18056. Withdrawal of Designation.

(a) A designation of an LEA may be withdrawn by the local governing bodies that originally made the designation. No approval of the board is required for the withdrawal. However, board approval of a new designation is required. Notice of the withdrawal shall be given to the board, a minimum of 90 days in advance of the effective date of the withdrawal, in the same manner as notice of designation is given. If after 30 days from the withdrawal of designation, no new local agency is designated and issued certification(s), then the board shall become the enforcement agency.

(b) A withdrawal of designation may be expressly conditioned on board approval of the new designation.

(c) Notice of designation of a new local agency, upon withdrawal of a previous designation, shall be made in the manner specified in Section 18051.

(d) If the board withdraws its approval of a designation of an LEA or certification(s) of an LEA, pursuant to Article 1 of Chapter 2 (commencing with Section 43200) of the Public Resources Code, the board shall become the enforcement agency until such time that a designated agency is issued certification by the board.

NOTE: Authority cited: Sections 40502, 43020 and 43200, Public Resources Code. Reference: Sections 43203, 43206 and 43216, Public Resources Code.

HISTORY

1. Amendment filed 12-17-91; operative 12-17-91 pursuant to Government Code section 11346.2(d) (Register 92, No. 13).

§ 18060. Appointment of Hearing Panel(s).

(a) Before the board can approve a designation, the designated local agency's local governing body shall appoint itself as the hearing panel and/or appoint an independent hearing panel pursuant to Section 18081(d)(2).

(b) Certified notice of the appointment of a hearing panel(s) shall be given the board and shall include the following:

(1) The name of each member and her or his position in the local governing body;

(2) the address to which filings and correspondence shall be mailed;

(3) indication whether each hearing panel was appointed pursuant to Section 44800 or Section 44801 of the Public Resources Code.

(4) If a hearing panel is appointed pursuant to Section 44801 of the Public Resources Code, an indication of which person is the technical expert in solid waste management, which person is the member of the local governing body, and which person is the representative of the public at large; and

- (3) a statement of EPP goals and objectives;
- (4) a demonstration of staff technical expertise;
- (5) a copy of the enabling ordinance(s) or resolution(s) for the LEA jurisdictional authority;
- (6) a copy of all local solid waste collection, handling, storage, and disposal statutes or ordinances;
- (7) a comprehensive list of all types of solid waste facilities and disposal sites, and solid waste handling and collection vehicles within the jurisdiction;
- (8) a procedure manual for solid waste facility permitting and closure or postclosure;
- (9) a procedure manual for inspection, investigation, compliance assurance, enforcement, and hearing panel utilization;
- (10) a procedure manual for disposal site identification, assessment, and corrective actions;
- (11) a detailed staff training procedure pursuant to 14 CCR 18075;
- (12) a time task analysis demonstrating the adequacy of staff resources pursuant to 14 CCR 18073; and
- (13) an operating budget demonstrating adequacy of budget resources pursuant to 14 CCR 18074.

NOTE: Authority cited: Sections 40502, 43020, 43200 and 43214, Public Resources Code. Reference: Sections 43200–43209, Public Resources Code.

HISTORY

1. New section filed 12–17–91; operative 12–17–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 13).

§ 18078. Directory of Enforcement Agencies and Hearing Panels.

The board shall maintain a statewide directory of hearing panels and local enforcement agencies as approved and issued certification(s) by the board. The directory shall include a description of the jurisdiction and mailing address of each and shall be open to the public inspection pursuant to Article 4 of Chapter 1 of this division. The board shall promptly respond to inquiries by the public regarding the identity or location of an enforcement agency or hearing panel.

NOTE: Authority cited: Sections 40502, 43020 and 43200, Public Resources Code. Reference: Sections 43200, 43201, 43204, 44800 and 44801, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 18070 to section 18078 filed 12–17–91; operative 12–17–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 13).

Article 2.2. LEA Performance Standards, Evaluation Criteria, and Duties and Responsibilities

§ 18080. Scope.

(a) This Article, pursuant to Public Resources Code Section 43214, sets forth the LEA's duties and responsibilities, performance standards, certification maintenance requirements, and board evaluation of LEAs.

NOTE: Authority cited: Sections 40502, 43020, 43200 and 43214, Public Resources Code. Reference: Sections 43209, 43214, 43215, 43216 and 43219, Public Resources Code.

HISTORY

1. New section filed 12–17–91; operative 12–17–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 13).

§ 18081. LEA Performance Standards and Evaluation Criteria.

(a) In performing its permitting, closure and postclosure, inspection, and enforcement functions, the LEA shall meet its duty requirements and comply with the standards pursuant to Public Resources Code Division 30, Parts 4, 5, and 6; 14 CCR Division 7 and its EPP. Deviation from these standards may result in a performance review by the board pursuant to Public Resources Code Sections 43214, 43215 and 43219, including establishment of LEA compliance schedules or withdrawal of designation and certification(s). The board's evaluation and decisions will consider

the severity of the deviation(s) as related to the potential negative impacts on public health, safety or the environment.

(b) The LEA shall be assessed for compliance with the certification requirements pursuant to Article 2.1 and 2.2 of this Chapter, Public Resources Code Section 43209, and its board approved EPP.

(c) All facilities and disposal sites within the LEA's jurisdiction shall:

- (1) be in compliance with the State minimum standards and the terms and conditions of the solid waste facility permits; and
- (2) be permitted or exempted; or
- (3) be under appropriate enforcement action(s) pursuant to 14 CCR Section 18084 to remedy any violations.

(d) All LEA's shall retain their certification(s) and designation by maintaining compliance with their board approved EPP and this Chapter.

(1) The LEA shall provide for, obtain, and maintain the necessary technical, safety and regulatory equipment, clothing and vehicles for field inspectors. The LEA shall identify in its board approved EPP what constitutes "necessary" for staff safety and field monitoring, measurement, inspection, and enforcement requirements for all its solid waste management duties and responsibilities and its certification(s).

(2) The local governing body of the LEA shall maintain an independent hearing panel for permit, enforcement and appeal purposes, when in the jurisdiction of the LEA there exists a publicly operated solid waste facility or disposal site, as per Section 18060 of this Chapter and Sections 44800 through 44817 of the Public Resources Code.

(3) The LEA shall provide for technical review of corrective actions and post closure land use pursuant to Section 45300 of the Public Resources Code.

(4) The components of the EPP shall be reviewed and amended annually, by the LEA, to reflect any changes. The amended components shall be submitted to the board for approval.

(e) The LEA shall perform all applicable duties related to the California Environmental Quality Act.

NOTE: Authority cited: Sections 40502, 43020, 43200, 43203 and 43214, Public Resources Code. Reference: Sections 43200–43204, 43207 and 43209, Public Resources Code.

HISTORY

1. New section filed 12–17–91; operative 12–17–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 13).

§ 18082. LEA Duties and Responsibilities for Permitting and Closure or Postclosure.

(a) The LEA shall implement the solid waste facility permitting regulations pursuant to Public Resources Code Division 30, Parts 4 and 5 and 14 CCR Division 7, Chapter 5, and its EPP as follows:

- (1) applications:
 - (A) verify the submission of required documents, site and personal information, and fees;
 - (B) evaluate the application documents for accuracy and conformity to the EPP and the appropriate state standards cited in subsection (a) of this Section;
 - (C) review for short and long term environmental impacts, damage, and proposed mitigation measures;
 - (D) decide whether or not to accept the application and proceed with a proposed permit for board approval;
 - (E) initiate appropriate public notice and comment period; and
 - (F) submit copies of the above documents, notices, comments, and responses to the board.

(2) proposed permit:

- (A) prepare permits with specific conditions for design, operation, and adverse environmental effect, monitoring and mitigation;
- (B) submit proposed permits to the board and the applicant;
- (C) allow a waiting period for review, concurrence, or objection by the board, and modification by the LEA as required;
- (D) allow permit review, concurrence, or objection by the applicant, and hearing panel process if necessary;
- (E) issue or deny the issuance of the solid waste facilities permit, upon satisfactory conclusion of the above process; and