



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: 10/13/09
Placement: Set Hearing
Estimated Tme: 30 min on 10/27/09
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Michele Mickiewicz, MPH, Interim Director
Director
Contact Info: Rick Merrifield, Environmental Health Director (681-4934)
SUBJECT: Environmental Health Services Fee Adjustments

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: N/A

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

Set a public hearing for October 27, 2009 to consider recommendations regarding Environmental Health Services fee resolutions, as follows:

- A. Adopt a Resolution amending fees for Environmental Health Services pursuant to the California Uniform Retail Food Facilities Law, Health & Safety Code §113700, et seq., including an option for Nonprofit Temporary Food Facilities.
- B. Adopt a Resolution amending fees for Environmental Health Services relating to Swimming Pool Sanitation, Organized Camps, Bacteriological Water Samples, Septic Tank Pumper Trucks and Sewage Violation Inspections pursuant to the California Health & Safety Code and Chapter 16 of the Santa Barbara County Code.
- C. Adopt a Resolution amending fees for Environmental Health Services relating to Substandard Housing Complaint Inspections pursuant to Health & Safety Code §17910.
- D. Adopt a Resolution amending fees for Environmental Health Services relating to Tattooing, Body Piercing and Permanent Cosmetics pursuant to California Health & Safety Code §119300 et seq.
- E. Adopt a Resolution amending fees for Environmental Health Services relating to Septic Systems, Graywater Systems, and Other On-site Sewage Disposal Systems.

- F. Adopt a Resolution amending fees for Environmental Health Services pursuant to the California Safe Drinking Water Act, Health & Safety Code §§116270-116751.
- G. Adopt a Resolution amending fees for Environmental Health Services relating to Water Wells and Private Water Systems.
- H. Adopt a Resolution amending fees for Environmental Health Services relating to Land Development Review.
- I. Pursuant to California Environmental Quality Act (CEQA) guidelines, approve the Notices of Exemption from the California Environmental Quality Act of 1970 (CEQA) for each of the fee resolutions.

Summary Text:

The Public Health Department is requesting a hearing to consider revisions to eight fee resolutions for services provided by Environmental Health Services (EHS). Four of these resolutions were last updated in October 2007 and four others in April 2008. The actions recommended in this Board letter would apply cost of living adjustments to bring the fees in line with actual costs to provide the specified services.

Since EHS fees were last adjusted, the County has experienced increases in operating costs, driven primarily by salaries and benefits, including retirement costs. EHS has implemented efficiencies to minimize the need for fee revisions and to reduce General Fund support. These measures include the deletion of one full time administrative position, delays in filling vacant positions, reducing the number of ocean water testing locations, and eliminating winter testing of ocean water altogether so available funding can be concentrated on the mandated summer testing period.

EHS recently completed a major database upgrade which is expected to increase efficiency and reduce the need for additional staff as it becomes fully integrated into the operations of the various EHS programs. Known as EnvisionConnect, this database migration project is the culmination of four years of preparation by Public Health Information Technology and EHS staff working with the vendor Decade Software. The new database provides a modern, web-based data system that is specifically tailored for environmental health programs, including permit tracking, time and activity planning, management of service requests and complaints, supervision tools, cost and revenue tracking, and invoicing and billing. This new system has the ability to tailor computer screens to specific functions, which is expected to streamline many operations as staff become accustomed to the new work flows. Because it is web-based, it will also facilitate real time data entry in the field and allow delivery of printed reports at the time of facility inspections.

These efficiencies were obtained despite an increase in workload due to three major fires, new regulatory requirements for swimming pools, septic systems and body art, and overall growth in the number of service requests and inventoried facilities.

Background:

Environmental Health Services administers a variety of programs that are primarily supported by user fees. These fees are addressed in nine separate fee resolutions based on specific mandates and authority to charge fees in California law. In FY 2004-2005 a comprehensive analysis of these fees was completed that realigned fees with the costs of providing services. In the five years since that realignment, fees have been periodically adjusted to account for increases in direct costs to provide these services. The attached resolutions update eight of the nine Environmental Health Services fee

resolutions and would bring revenues closer in line with the increased cost of providing services. The ninth resolution relates to Solid Waste fees which will be brought to the Board at a future date for appropriate revisions.

The fee revisions recommended at this time are limited to changes in actual costs and minor revisions to simplify and streamline the fee schedules and improve their consistency. In bringing forward these recommended fee adjustments, it is the intent of the Public Health Department to follow the recommendation of the Blue Ribbon Task Force to review fees no less than bi-annually and, where viable, pursue full cost recovery.

Current Requests:

Recommendation A: Retail Food Program (Attachment A)

Environmental Health Services provides oversight for approximately 3,400 retail food facilities throughout the County. Primary activities include routine and follow up inspections, plan checks and investigation of reports of food borne illness. Effective July 1, 2007, the California Uniform Retail Food Facilities Law (Health & Safety Code §113700 et seq.) was replaced in its entirety by the California Retail Food Code (Cal Code) which is based on the federal Model Food Code. As a “science-based” code, Cal Code emphasizes specific risk factors for food borne illness, based on actual operational conditions. This shift improves public health protection by requiring more in-depth inspections for establishments with higher risk while providing increased flexibility in requirements for those with lower risk. These changes do increase workload, however, because of the greater need for attention to individual situations.

Productivity Enhancements:

In order to accommodate this increased workload without adding staff, EHS has continued to look for opportunities to improve efficiency and streamline processes in the Food program:

1. A new checklist food inspection form was developed that offers the following enhancements:
 - a. Easier for business owners to read and understand than the previous form.
 - b. Reduces the need for handwritten comments, improving the readability and standardization of inspection reports.
 - c. Utilizes standardized descriptions and logical groupings of operational issues.
 - d. A separate section is provided for recording temperature readings for ready reference by owners and inspectors.
 - e. Relevant code language is printed on the back of the inspection form for reference by business owners.
2. Having established the new EnvisionConnect database, EHS is now preparing to adopt a laptop computer-based field inspection system. Enhancements expected from this upgrade include fully printed inspection reports with standardized language, direct data entry in the field and the ability to look up real time data in the field. It is also anticipated that EHS will be able to expand our current online inspection results webpage to include minor violations and complaints as well as major violations that are currently reported online.
3. EHS has also begun development of a risk-based system of categorizing retail food facilities to allow us to better focus our limited resources on facilities and operations with the highest potential public health risks. This approach is expected to provide improved public health

protection and increased inspection frequency for higher risk facilities while realizing savings from reduced inspection frequency for facilities that present less risk.

The updated fee resolution for the Retail Food Program has combined several fee categories to simplify the fee schedule and streamline application and permitting procedures:

- The two smallest Health Permit categories for permanent food facilities are now combined into a single category.
- Plan check categories have been reduced from ten to six.
- Some definitions have been refined for clarification.
- Reduced fees for low risk operations remain in place.

Temporary Food Facilities:

Temporary Food Facilities associated with community events make up a significant portion of the growing EHS workload and expenditure budget. Organizers and temporary booths now constitute 28% of all food facilities in the County and require a significant number of staff hours. These facilities differ markedly from permanent food facilities and add disproportionately to the workload because each and every special event involves converting an open field, park or parking lot into a safe environment for preparing and serving food to the public. A traditional retail food business is required to be fully enclosed in a permanent building that meets building and zoning codes and has a pressurized piped hot and cold water supply, connection to an approved sewage disposal system or public sewer, permanent electrical and gas connections, adequate lighting, built-in ventilation systems, adequate storage, hand wash facilities, permanent restrooms with hot water, soap and towels, a separate area for trash and grease storage, exclusion of insects and rodents and janitorial equipment to facilitate regular and thorough cleaning. All of these elements require approval by EHS and the local building department. Permanent food facilities are also required to have a certified food handler on staff.

Temporary food facilities have none of these infrastructure elements or training requirements, all of which are considered essential for safe food handling. Additionally, temporary events typically operate on weekends, necessitating the use of overtime or diversion of staff from an already full workload during the regular work week. Each temporary event is essentially a compressed combination of a consultation, permit application, plan check, construction inspection and operational inspection. If problems are encountered, there is very little time to make corrections, resulting in a situation in which staff needs to conduct follow up inspections, or close the facility in the field.

Community events are a popular fund-raising venue for nonprofit organizations. Of the 964 temporary food facility operations in Santa Barbara County, two-thirds are conducted by or for nonprofit organizations. These operations do not currently pay fees and are not required to have trained staff. Previous fee resolutions included a waiver of fees for nonprofit organization based on General Fund support for this program. However, in order to meet the General Fund contribution target for FY 2009-10, the adopted EHS budget assumed approximately \$107,000 in revenue from nonprofit event organizers and booth operators.

Concerns have been expressed to our office regarding the current budget which calls for nonprofit organizations to pay full fees. In response, four options for nonprofit temporary food facilities have been prepared for consideration by the Board in the attached Retail Food Facilities fee resolution:

1. Payment of the same fees as for-profit facilities, as currently budgeted;

2. 50% reduction if the organizer and all booth supervisors take a food safety course administered by EHS; or
3. Tiered fee reduction/waiver that offers reduced fees for organizers of smaller events and a fee waiver for operators who handle only lower risk types of food, coupled with food safety training for booth supervisors.
4. Continuation of the fee waiver for nonprofit organizers and booth operators coupled with a new training requirement.

Option 1 would charge the same fees to both nonprofit and for-profit operators. This is the assumption utilized in the adopted FY 2009-10 budget. Over a full year, it would recover estimated costs of approximately \$107,000 if the level of activity remained the same.

Option 2 would impose a new training requirement which is intended to improve food safety for the public by improving organizer and operator knowledge of food safety principles. It would require an increase in the current and future year General Fund contribution of approximately \$50,000.

Option 3 would also require food safety training, but only for operators of booths that handle potentially hazardous foods. It would reduce the fee for organizers of small events with no more than four booths and provide a full waiver of fees for operators of low risk booths. This option would require an increase in the current and future year General Fund contribution of approximately \$44,500.

Option 4 would continue the past practice of providing a full waiver of fees for charitable nonprofit organizations operating no more than four times per year for no more than three days in duration. The fee waiver would continue to be contingent upon submittal of a complete permit application at least two weeks prior to the event. A new requirement for food safety training by booth supervisors would be added. This option would require an increase in the current and future year General Fund contribution of approximately \$107,000.

If the Board decides to provide a fee reduction for nonprofit temporary food facilities, it is the Public Health Department recommendation that **Option 3** be adopted based on its closer relationship to actual workload, its focus of training requirements where they will do the most good, its full fee waiver for low risk facilities and lower overall cost. For all options, food safety training would continue to be provided on a regular as-needed basis by EHS staff, including after hours classes. Classes are typically about an hour long and can be offered in County or other facilities. The resolution also includes an option for booth operators to take the same private sector food safety class required for permanent food facilities if they prefer.

With respect to permanent food facilities, vehicles and for-profit Temporary Food Facilities, the recommended Food program fee resolution increases annual revenue by an estimated \$200,300 for the 2,787 food facilities and estimated 236 construction plan checks. Revenue for the estimated 635 nonprofit Temporary Food Facilities will depend on the level, if any, of General Fund support.

Recommendation B: Swimming Pools, Organized Camps, Water Samples, Septic Tank Pumpers and Sewage Discharges (Attachment B)

- **Swimming Pool Sanitation:**
The recommended fee resolution continues the practice of charging a lower inspection fee for secondary pools and spas at the same location and providing a 20% lower plan check fee for secondary pools or spas when plans for multiple pools are received as a combined project. Overall, the recommended resolution increases the program's annual revenue by an estimated

\$29,760 for the 739 swimming pools/spas and estimated 83 plan checks for construction and remodels.

- **Organized Camps:**

The five active Organized Camps in the County include the multiple program components of food, swimming pools and drinking water systems, in addition to the physical facilities, operations and vector control issues. As provided in Chapter 16 of the County Code, the Organized Camp fee covers costs of all component inspections. The recommended fee resolution increases the annual fee from \$715 to \$805, increasing the program's annual revenue by \$450 for the five Organized Camps.

- **Bacteriological Water Samples:**

While most of the small water system operators now contract directly with the Public Health Laboratory or local commercial labs for their water sampling needs, it remains necessary for EHS to take a small number of bacteriological water samples. The fee, which includes sampling, delivery to the lab and a report of results, is recommended to increase from \$100 to \$115. The increase in annual revenue is estimated at \$180.

- **Septic Tank Pumper Trucks:**

The recommended fee resolution increases the fee from \$230 to \$260. The program's annual revenue is estimated to increase by \$2,430 for the 81 Pumper Trucks currently in inventory that are in the business of pumping septic tanks, cesspools, seepage pits, or chemical toilets.

- **Sewage Violation Inspections:**

The recommended fee resolution continues the practice of charging an hourly rate for complaint responses to sewage discharges upon confirmation of the violation.

Recommendation C: Housing and Institutions (**Attachment C**)

The majority of activity in the Housing program consists of response to complaints from the community, primarily reports of sewage spills and indoor infestations of insects or rodents. When a responsible party for a confirmed sewage discharge is identified, an hourly rate fee is charged to the property owner. Fees for Detention Facility inspections are also charged on an hourly basis. The recommended fee resolution increases the program's revenue by an estimated \$440.

Recommendation D: Tattooing, Body Piercing and Permanent Cosmetics (**Attachment D**)

Environmental Health Services is responsible for enforcement of State statutes related to tattooing and other body art practices. The recommended fee resolution for the Tattoo and Body Art program contains several revisions to address an increased workload in this program area. The existing registration fee and annual practitioner fee are unchanged but the facility fee is recommended to increase from \$125 to \$250. In addition, a new Festival Organizer and Festival Practitioner fee have been added to address the workload associated with body art festivals. These revisions improve consistency with code requirements and will improve cost recovery for this program. Additional changes may be required with the expected adoption of AB 517 which is scheduled to take effect on July 1, 2010. The currently proposed revisions will increase the program's annual revenue by an estimated \$19,700 for the 28 facilities, 67 practitioners and estimated two festivals of 80 practitioners each.

Recommendation E: Septic Systems, Graywater Systems and Other Onsite Sewage Disposal Systems (Attachment E)

EHS is responsible for plan checks and construction inspections of onsite sewage treatment and disposal systems in the unincorporated area of the County. Primary activities include review of new systems, abandonment of old systems, evaluation of existing systems for remodels or additions, and review of modifications to existing systems to meet increased demands. For simple projects that do not increase design wastewater flow and do not impact the required 100% expansion area, the proposed resolution retains a "Simple Evaluation" at a reduced cost to the property owner. Graywater and recycled water systems are reviewed on an hourly fee basis. The proposed fee revisions will result in a revenue increase to the Liquid Waste program of \$7,740 for an estimated 424 plan checks.

For new development and remodels, Environmental Health Specialists coordinate with Planning & Development case planners to provide for concurrent review of project plans and proper coordination of permits. In order to simplify and streamline the permitting process, EHS now assigns all septic system permits to one of three staff. This increased specialization allows a higher level of expertise, improved service levels to the customer and more effective coordination with planners, building inspectors, owners, contractors and designers.

Recommendation F: California Safe Drinking Water Act (Attachment F)

EHS is the designated Local Primacy Agency for enforcement of State requirements related to public water systems with fewer than 200 connections. These requirements are addressed in sections of the Health and Safety Code known as the California Safe Drinking Water Act. In accordance with State law, the fees and requirements are based on the number of connections and categories of use. The proposed fee revisions apply to annual operating permits for 93 water systems and an estimated four plan checks and permit amendments, resulting in an estimated revenue increase to the Drinking Water program of \$3,125.

Recommendation G: Water Wells and Private Water Systems (Attachment G)

EHS is responsible for enforcement of State standards and County Code provisions related to private water systems and water wells in the unincorporated area of the County. Primary duties related to water wells include site approval, construction or modification inspections and assurance that unused wells are properly destroyed. EHS provides plan check services, construction inspections and bacteriological tests prior to occupancy for private water systems (1-14 connections) in the unincorporated area of the County. The proposed fee revisions will result in an estimated revenue increase to the Water Well and Private Water System Program of \$5,470 for 198 anticipated permits.

Recommendation H: Land Development Review (Attachment H)

The Land Use program is staffed by a Senior Environmental Health Specialist who participates directly in the permit process administered by Planning & Development. This individual has a strong geology background and serves as the County's expert on matters related to onsite disposal of sewage. The EHS Land Use Specialist reviews most discretionary cases, attends Subdivision & Development Review Committee (SDRC) and Special Problems Area Committee meetings, and provides comments, consultation and recommended conditions of approval related to onsite sewage disposal, drinking water and other environmental health issues to applicants, planners and decision makers. The proposed fee revisions will result in a revenue increase to the Land Use program of \$6,565 based on an estimated 121 cases.

Recommendation I: Approve the Notices of Exemption from the California Environmental Quality Act of 1970 (CEQA) for each of the Fee resolutions (attached to each fee resolution)

These fees qualify for statutory California Environmental Quality Act of 1970 (CEQA) exemption under Public Resource Code Section 21080 (b)(8)(A) and (B) and Title 14 (California Code of Regulations), Section 15273. Notices of Exemption are attached to each fee resolution.

Summary:

All fee resolutions include an hourly rate of \$136. Because previous fee resolutions were not adopted at the same time, hourly rate fees were kept artificially low in order to keep them consistent across multiple programs. This new rate reestablishes uniformity among the different fee resolutions and is an accurate reflection of actual costs to provide these services. This hourly rate will be utilized primarily for activities that do not have a fixed fee (e.g., inspections of detention facilities) or when staff time for plan check or inspection activities exceeds the category maximum. This approach allows EHS to keep standard plan check fees as low as possible. Because the application of the hourly rate is estimated to constitute only 1.8% of the Environmental Health Division's services, it is calculated using an average across all programs. The proposed hourly rate change will result in a total annual estimated revenue increase of \$11,384 across all the programs (included in the individual program discussions above.) All fee resolutions include provisions for appeals and language that allows applicants to request a review of their project fee for plan checks that require significantly less staff time than the average. Additionally, most fee resolution categories have been rounded to the nearest \$5. All resolutions include a Non-Sufficient Fund fee of \$35 for returned checks. Government Code §6157 allows a reasonable charge not to exceed the cost of processing and collection.

Performance Measure:

Performance measures for EHS that are related to these recommendations include:

1. Ensure that at least 95% of the approximately 2300 permanent retail food facilities receive at least one routine inspection per year.
2. Ensure that 100% of approximately 236 plans for retail food facilities and 83 plans for swimming pools receive initial plan check within 15 working days.
3. Respond to and initiate investigation of an anticipated 100 reports of food borne illness within one working day.
4. Respond to and initiate investigation of approximately 80 sewage discharge complaints within one working day.

Fiscal and Facilities Impacts:

Budgeted: Partially. The adopted budget included a conservative increase in fee revenue, and new revenue for nonprofit Temporary Food Facilities due to a reduction of General Fund Contribution.

Fiscal Analysis:

Adopting the Environmental Health Services fee resolutions will amend the fees to more accurately reflect the cost of providing services. The eight fee resolution amendments attached here have not been brought to your Board together since FY 2004-2005 and therefore are at varying levels of COLA increases. Adopting the recommendations will align the program fees with up to date COLAs and retirement increases. The fee increase is approximately 10% (average of all programs). **Attachment J** summarizes the changes to each fee by EHS program and fee category. It also shows the projected annual revenue increase by program, estimated at \$276,164 (excluding temporary food facilities for non-

profit organizations; see below). However, since these fees are requested to be implemented mid-year, the resulting revenue increase for FY 2009-2010 is estimated at a lower amount, \$239,694.

General Fund Contribution could increase depending on the Temporary Food Facility fee option chosen for nonprofit organizations.

1. Full fees, as currently budgeted – no General Fund Contribution
2. 50% fee reduction if the organizer and booth supervisor take a food safety course administered by EHS – General Fund Contribution of \$50,000 annually, or
3. Stepped fee waiver that gives a credit for smaller events and lower risk types of food, coupled with food safety training for booth supervisors only – General Fund Contribution of \$44,500 annually.
4. Continued full fee waiver – General Fund Contribution of \$107,000 annually.

Staff recommends Option 3 with a \$44,500 additional General Fund Contribution.

Adoption of the recommendations, including Option 3 for Temporary Food Facilities, will increase General Fund Contribution by \$44,500 annually. The Environmental Health Services Cost Center is included in the Public Health Department’s Fiscal Year 2009-2010 operating budget in the Community Health division, found on page D-204.

Adoption of these fee resolutions and recommendations will not result in any additional staff or need for facilities.

Staffing Impacts:

Legal Positions:
0

FTEs:
0

Special Instructions:

1. Request the Clerk of the Board to publish notice of this hearing, per the attached Notice (**Attachment I**), in the Santa Barbara News Press 5 and 10 days prior to the hearing, in accordance with Government Code §6062a.
2. Request the Planning and Development Department to post the Notices of Exemptions for each of the resolutions in the County Planning and Development Department at least six days prior to consideration of the activity by the Board of Supervisors to comply with the County CEQA guidelines.
3. Return one fully executed copy of each resolution to the Public Health Department Contracts Unit, 300 N. San Antonio Road, Bldg. 8, Santa Barbara, CA 93110 and email an electronic copy of the Minute Order to PHD Contracts Unit at PHDRES.contractsunit@sbcphd.org.

Attachments:

Attachment A - Resolution amending fees for Environmental Health Services pursuant to the California Uniform Retail Food Facilities Law, Health & Safety Code §113700, et seq.

Attachment B - Resolution amending fees for Environmental Health Services relating to Swimming Pool Sanitation, Organized Camps, Bacteriological Water Samples, Septic Tank Pumper Trucks and Sewage Violation Inspections pursuant to the California Health & Safety Code and Chapter 16 of the Santa Barbara County Code.

Attachment C - Resolution amending fees for Environmental Health Services relating to Substandard Housing Complaint Inspections pursuant to Health & Safety Code §17910.

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Attachment D - Resolution amending fees for Environmental Health Services relating to Tattooing, Body Piercing and Permanent Cosmetics pursuant to California Health & Safety Code §119300 et seq.

Attachment E - Resolution amending fees for Environmental Health Services relating to Septic Systems, Graywater Systems, and Other On-site Sewage Disposal Systems.

Attachment F - Resolution amending fees for Environmental Health Services pursuant to the California Safe Drinking Water Act, Health & Safety Code §§ 116270-116751.

Attachment G - Resolution amending fees for Environmental Health Services relating to Water Wells and Private Water Systems.

Attachment H - Resolution amending fees for Environmental Health Services relating to Land Development Review.

Attachment I - Notice of Public Hearing

Attachment J - Summary of Recommended Fee Revisions

Authored by: Rick Merrifield, Environmental Health Services Director
Stacy Covarrubias, PHD Cost Analyst