

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:
Prepared on: 9/09/04
Department Name: Public Health
Department No.: 041
Agenda Date: 10/5/04
Placement: Admin
Estimate Time: 30 Minutes on 10/26/04
Continued Item: Yes
If Yes, date from: 5/25/2004

TO: Board of Supervisors

FROM: Roger E. Heroux, MPA
Director, Public Health Department

STAFF CONTACT: Rick Merrifield, Director
Environmental Health Services (681-4934)

SUBJECT: Environmental Health Services Fee Adjustment – Solid Waste Enforcement Program

Recommendation(s):

That the Board of Supervisors:

- A. On October 5, 2005, set a public hearing for October 26, 2004 for 30 minutes to consider adoption of a resolution revising Environmental Health Services fees related to the administration of the California Integrated Waste Management Act of 1989.
- B. At the conclusion of the public hearing on October 26, 2004, adopt the attached resolution establishing fees for Environmental Health Services relating to Administration of the California Integrated Waste Management Act of 1989.
- C. Approve the Notice of Exemption pursuant to California Environmental Quality Act (CEQA) guidelines.

Alignment with Board Strategic Plan:

The recommendations are primarily aligned with

Goal No. 1: An Efficient Government Able to Respond Effectively to the Needs of the Community and
Goal No. 2: A Safe and Healthy Community in which to Live, Work and Visit.

Executive Summary and Discussion:

On May 25, 2004, the Environmental Health Services (EHS) division of the Public Health Department (PHD) proposed nine fee resolutions. Eight resolutions were approved and the Solid Waste program's fee resolution was continued. Your Board directed EHS to work with the affected business owners and the solid waste staff and return with a revised recommendation.

On July 15, 2004, EHS staff held a workshop in Solvang and invited all affected operators. From that workshop and comments expressed at the May 25th Board meeting, fees were recalculated and revised.

History

The current Solid Waste fee structure has been in effect since 1997. It recovers \$0.67 per ton invoiced to the four landfills operating in the county. Of the 67 cents, 64 cents are deposited in the EHS operating budget and 3 cents are deposited in Trust Fund 1385. This trust designation, which grows about \$11,850 annually, will allow Environmental Health Services, as the Local Enforcement Agency, to retain, as needed, professional services such as geologists, engineers, hydrogeologists or, if required, outside legal counsel for enforcement issues.

The passage of AB 939 (Sher) in 1989 mandated that every jurisdiction reduce the amount of material disposed at landfills by 50% by the year 2000. In order to meet this mandate, new recycling and diversion programs were initiated and have been very successful at redirecting material from the landfills in Santa Barbara County. Most of these operations require solid waste facility permits with inspection and monitoring by EHS.

The fee resolution proposed on May 25, 2004 included a fee to the diversion operators for the first time, in addition to the landfills, using tonnage and type of waste facility as the basis, as follows:

- Continue the cents-per-ton fee for the four **Landfill** operators at a revised rate of \$0.69 per ton
- Add the four **Compost/Green Waste** operators at \$0.22 per ton
- Add the six **Process/Transfer Station** operators at \$0.26 per ton
- Add the five **Construction/Demolition/Inert** operators at \$0.05 per ton
- Add an **Application** fee for all new Solid Waste permits

After the EHS fee presentation, several diversion operators voiced their concerns about the proposed fees and suggested that time, rather than tons, should be used as the basis for fees. Additionally, Supervisor Centeno stated that the diversion operators provide a service to county residents and the benefit of these efforts should somehow be recognized and “calculated” into the fees.

Recommendation

At the Solid Waste fee workshop, the following areas of concern were discussed and were incorporated into the revised recommended fees:

1. Use of staff time versus tonnage of material processed
2. Hourly invoices for field inspection activities
3. Flat annual fees
4. Recognition of the value of diversion operations

Most of the diversion operators were not opposed to paying a fee, but did not support a fee that was based on tonnage processed at the facility. They also felt that the population-at-large should support diversion activities. Additionally, most agreed that an hourly fee for the time spent at their respective sites would be acceptable. However, this type of fee would not take into account the cost of office work that is done on behalf of the facilities, nor the associated overhead costs.

Therefore, for diversion operators, the revised recommended fee proposal incorporates an hourly billing for on-site inspection time and a nominal annual fee for the office work associated with the site. For the overhead portion of costs associated with the diversion facilities, this revised proposal reallocates the cost to the landfills as it represents their savings from diversion activities. The landfills will be subsidizing \$35,610 of costs associated with diversion facility operations. This amount represents a 13.6% increase to landfill facilities over the originally stated landfill costs in the May 25, 2004 proposal.

In order to quantify a reasonable value to the landfills from the efforts of the diversion facilities, staff looked at tonnage trends and population. The last time EHS Solid Waste fees were increased was in 1997. At that time, the program recovered the full cost of the program, paid exclusively by the landfills. The annual tonnage collected by the landfills in FY 1997-1998 was 442,594. The County population at that time was 398,000. The population now, according to the Department of Justice's January 1, 2004 report, is 414,796. This is a population increase of 16,796, or 4.2%

If there were no diversion activities, a reasonable statement would be that tonnage to landfills would be expected to increase by 4.2%, the same as the population increase. The FY 1997-1998 tonnage of 442,594 plus 4.2% equals 461,182 tons. In the EHS fee proposal, the estimated annual tonnage to be collected by landfills for FY 2004-2005 is 395,000. The difference between 461,182 and 395,000 is an estimated reduction in tons of 66,182. This reduction in tonnage, multiplied by the current cents-per-ton, places a value on diversion operation activities benefiting the county residents and the landfills of \$42,356.

Whereas the first fee recommendation for diversion operators used tonnage as the basis applied to the type of facility (Composting, Process/Transfer Station, or Construction/Demolition/Inert), the revised fee proposal uses time associated with the facility and the type of permit (Notification, Registration or Full). Establishments that have Notification Permits are required to be inspected quarterly while the Registration and Full Permit establishments have monthly inspection requirements.

The proposed resolution continues the cents-per-ton methodology for the four landfills, with an increase to subsidize diversion operations that reflects the savings that they have accrued for the diversion activities. It also adds an Application fee for new solid waste permits for all types of facilities. Overall, the recommended solid waste management fee resolution increases the program's revenue by an estimated \$46,200, or 16%.

It is the intent of the department to evaluate the structure of the Solid Waste program's fees once they are in effect for two years. Besides evaluating the structure of the fees, an annual reconciliation will provide a basis, along with consultation with the Auditor-Controller's office, about whether an update to the fee resolution due to cost increases could be done by using an across-the-Board increase based upon a COLA or a CPI percentage.

These fees qualify for statutory California Environmental Quality Act of 1970 (CEQA) exemption under Public Resource Code, section 21080, subd (b) (8) (A) & (B) and Title 14 (California Code of Regulations), Section 15273.

Mandates and Service Levels:

The Solid Waste program operates at state specified service levels.

Fiscal and Facilities Impacts:

A. Setting the hearing has no fiscal or facilities impact.

B. The proposed fees, when adopted, will increase the Public Health Department's FY 2004-2005 Adopted Budget for Environmental Health Services, found on page D-192, by approximately \$26,200. The methodology used in the development of this fee structure: 1) has been approved by the Auditor-Controller's office, 2) incorporates the County A87 Plan Overhead in the amount of \$113,296 allocated to EHS (\$14,566 for the Solid Waste program), and; 3) will allow the EHS program to recover the costs of providing these mandated services without general fund subsidy.

The resolution, when adopted, establishes fees to be effective July 1, 2004. Landfill operators are invoiced quarterly upon receiving tonnage amounts reported to the Regional Water Quality Control Board. The quarterly due dates for these figures are:

- October 31
- January 31
- April 30
- July 31

Your Board will hear this recommendation prior to the first invoicing of FY 2004-2005.

Adoption of this fee resolution will not result in any additional staff or need for facilities.

Special Instructions:

Publish the attached legal notice in a newspaper of general circulation in Santa Barbara County 10 days prior to the hearing and again 5 days prior to the hearing.

Please return one fully executed copy of the resolution along with a copy of the minute order to the Public Health Department Contracts Unit, 300 N. San Antonio Road, Bldg 8, Santa Barbara, CA 93110
Attn: Margaret Granger (805) 681-5367

Concurrence:
Auditor-Controller
County Counsel

Enc. One (1) Resolution
Notice of Public Hearing

**RESOLUTION OF THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA**

**IN THE MATTER OF ADOPTING FEES)
FOR ENVIRONMENTAL HEALTH)
SERVICES RELATING TO ADMIN-)
ISTRATION OF THE CALIFORNIA)
INTEGRATED WASTE MANAGEMENT)
ACT OF 1989)**

RESOLUTION NO. _____

WHEREAS, the California Integrated Waste Management Act of 1989, Public Resources Code, §40000 et seq., (hereinafter "the Waste Management Act" or "Act") established a comprehensive scheme for regulating solid waste management; and

WHEREAS, the Environmental Health Services Division of the Public Health Department has been designated pursuant to the Act §43202 as the local enforcement agency within the County of Santa Barbara; and

WHEREAS, the Waste Management Act provides that the local enforcement agency shall process applications, issue permits, make inspections, and carry out an enforcement program pursuant to the Act for solid waste facilities; and

WHEREAS, §43213 of the Waste Management Act allows the local governing board to approve a fee structure to cover the costs for administration of the solid waste enforcement program to be carried out by the local enforcement agency; and

WHEREAS, §16-47 of the Santa Barbara County Code (County Code) provides that the Santa Barbara County Board of Supervisors may adopt by resolution a fee schedule for the Environmental Health Services Division of the Department of Public Health, whose services are authorized by certain state statutes; and

WHEREAS, the present fees for administration of the solid waste enforcement program have remained unchanged since the adoption of Resolution 97-338, effective July 1, 1997; and

WHEREAS, the County of Santa Barbara has in connection with the above fees, held a public hearing as part of a regularly scheduled meeting and published notice of the meeting, including a general description of the matter to be considered, in accordance with Government Code §6062a; and

WHEREAS, the Board of Supervisors finds that the fees set forth in this resolution are exempt from CEQA review pursuant to 14 CCR 15273 and Public Resources Code §21080, subd. (b)(8)(A) and (B) in that the fees will be used for operating expenses and for the purchase of supplies, equipment or materials; and

WHEREAS, the fees may be revised as needed by the Santa Barbara County Board of Supervisors, and if the revision does not occur, the existing fees shall remain in effect.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED as follows:

That the fees set forth in the attached schedule of fees are hereby adopted pursuant to §43213 of the Act and § 16-47 of the County Code and said fees are to become effective on July 1, 2004.

That Resolution 97-338 of July 1, 1997, that covers the programs and services that are covered by this resolution is hereby repealed on the above-mentioned date that the fees imposed by this resolution become effective. The repeal of Resolution 97-338 shall not affect any obligation to pay any fees incurred under said resolution, and said obligation shall continue in effect after said resolution is repealed, and the County of Santa Barbara may take any appropriate action in regard to any delinquent fees imposed pursuant to said resolution.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this ____ day of _____, 2004, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

COUNTY OF SANTA BARBARA

By _____
Chair, Board of Supervisors

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

By _____
Deputy

APPROVED AS TO FORM:
SHANE STARK
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
ROBERT GEIS
AUDITOR-CONTROLLER

By _____
Celeste Andersen, Deputy County Counsel

By _____

NOTICE OF EXEMPTION

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Public Health Department

Based on a preliminary review of the project the following activity is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

APN(s) N / A Case No: N / A
Location: COUNTY OF SANTA BARBARA
Project Title: ADOPTION OF FEE RESOLUTION

Project Description: RESOLUTION ESTABLISHING FEES FOR ENVIRONMENTAL HEALTH SERVICES PURSUANT TO THE CALIFORNIA INTEGRATED WASTE MANAGEMENT ACT OF 1989.

Exempt Status: (Check One)

- Ministerial
- Statutory
- Categorical Exemption
- Emergency Project
- No Possibility of Significant Effect [Sec 15061(b,3)].

Cite specific CEQA Guideline Section:

14 CCR 15273 * PUBLIC RESOURCES CODE SECTION 21080(b)(8)(A) and (B)

Reasons to support exemption findings (attach additional material, if necessary):

FEES WILL BE USED TO MEET OPERATING EXPENSES AND FOR THE PURCHASE OF SUPPLIES, EQUIPMENT OR MATERIALS.

Roger E. Heroux, MPA
Director, Public Health Department

Date

NOTE: A copy must be posted in the Santa Barbara County Planning and Development Department at least 6 days prior to consideration of the activity by the decision makers to comply with County CEQA guidelines and a copy must be filed with the County Clerk of the Board after project approval to begin a 35 day statute of limitation on legal challenges.

Distribution: Planning and Development Department

Date Filed with the County Clerk

**SANTA BARBARA COUNTY PUBLIC HEALTH DEPARTMENT
ENVIRONMENTAL HEALTH SERVICES DIVISION FEE SCHEDULE
SOLID WASTE FACILITIES**

1. Tonnage Fees

All operators of solid waste disposal facilities, as defined in the Waste Management Act, shall pay a quarterly solid waste enforcement fee based on the type and quantity of material (by weight) received at their respective sites. The quantity figures shall be consistent with those reported to the California Regional Water Quality Control Board, Central Coast Region, as conditions of Waste Discharge Requirements issued by that Board.

Intake reports shall be submitted to the Director of Environmental Health Services on a quarterly basis. These reports shall be used to calculate the appropriate quarterly fee, which shall be invoiced to each waste facility operator.

Municipal Solid Waste	\$0.78 / ton*
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*Continues diverting \$.03/ton, from tonnage fees collected, into an established designation to be used by the local enforcement agency for independent services (legal counsel or professional.)

2. Annual Fee

An annual fee shall be assessed for every non-disposal solid waste facility for inspection, surveillance, administration and enforcement activities. The annual fee shall be based on the type of permit category:

Notification Permit	\$ 360
Registration Permit	1,090
Full Permit	1,090

3. Application Fees

All proposed new solid waste facilities seeking to initiate operations must submit a permit application, on a form approved by the Director of Environmental Health Services, with the appropriate application fee.

Notification Permit	\$ 760 (5 Hrs)
Registration Permit	2,280 (15 Hrs)
Full Permit	6,080 (40 Hrs)

4. Hourly Rate

\$ 100

All other persons, as determined by the Director of Environmental Health Services, who are not subject to paying the tonnage fee set forth in Section 1 above shall be charged an hourly rate fee for solid waste enforcement activities performed by Environmental Health Services pursuant to the Waste Management Act. The fee shall be determined by the number of person-hours, rounded up to the nearest one-quarter hour, including reasonable travel time, actually expended by County personnel in performing solid waste enforcement activities as outlined. These enforcement activities include:

- A. Bio-solids facility inspection, permit processing, exemption request processing, hearings and reports
- B. Required inspections of exempted facilities, closed, illegal, and abandoned sites
- C. Inspection or other review of solid waste disposal/transformation/composting or storage or materials recovery facilities, including, but not limited to, permit processing, inspections, document reviews, hearings and reports
- D. Inspection and abatement activities for illegal solid waste disposal or storage when the complaint is not associated with a permitted solid waste facility paying tonnage fees
- E. Time spent for reviewing and issuing a permit, in excess of the hours noted in Section 2, Application Fees.

5. Additional Program Charges

Photocopies, each \$ 0.35

5. Prorating of Fees

The County reserves the right to prorate, in monthly increments, all fees described in this resolution.

6. Delinquent Fees

Fees that are invoiced by Environmental Health Services as outlined in this fee schedule, which are not paid by the due date on the invoice shall be considered delinquent, and the following additional charges added:

- A. During the first thirty days of delinquency, any unpaid portion of the permit fee will have a penalty of 10% assessed.
- B. After thirty days of delinquency, an additional penalty of 15% of the unpaid balance will be assessed and a Final Notice will be issued.
- C. If the fee, and any penalty assessed pursuant to this resolution, is not paid within two weeks from the date on the Final Notice, the unpaid balance will be referred to the Santa Barbara County Treasurer/Tax Collector's office for collection. In addition to the fee(s) and any penalties associated with delinquent fee(s) as described above, accounts referred for collection shall be charged for the actual cost associated with collection efforts. The delinquency fees are in addition to any other remedies available to the County.

7. Contest of Charges

Any person required to pay fees pursuant to this resolution may file a written notice of contest of charges accompanied by such materials as will support the claim for relief, including payment in full as invoiced, with the Director (or designee) of Environmental Health Services Division for determination of the correct amount of fees due under this resolution. Such written notice shall be filed with said Director (or designee) within 45 days after mailing or personal delivery of the statement of fees. This period may be extended by the Director upon a showing of good cause. Upon receipt of such written notice of contest of fees, said Director (or designee) shall make a decision on said contested fees. The decision shall be final with no further right of review. Failure to include payment in full as invoiced will result in denial of review.

Refunds made as a result of this process shall be paid by Environmental Health Services and shall not include interest.

8. **Fee Waiver**

Any person to pay fees pursuant to this fee resolution may file a written application, including payment in full as invoiced, with the Board of Supervisors for a waiver or reduction of any said fees, or any part thereof, to the extent permitted by law and public policy, upon a showing of good cause by the applicant. The application shall be filed with the Clerk of the Board of Supervisors within 45 days after mailing or personal delivery of the statement of fees. Failure to include payment in full as invoiced will result in denial of review.

Refunds made as a result of this process shall be paid by Environmental Health Services and shall not include interest.