



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:** 4/2/19 First Reading  
4/9/19 Second Reading  
**Placement:** Departmental 4/2/19  
Administrative 4/9/19  
**Estimated Tme:** 30 minutes on 4/2/19  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

---

**TO:** Board of Supervisors

**FROM:** Department Van Do-Reynoso, MPH, PhD, Director  
Director(s) Public Health Department  
Contact Info: Larry Fay, Director  
Environmental Health Services, 346-8463

**SUBJECT:** Environmental Health Services Fee Adjustment – Hazardous Materials Programs

---

**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 consider the following recommendations:

On April 2, 2019:

- a) Receive and file a presentation regarding Environmental Health Services' Hazardous Materials Program fees.
- b) Approve the introduction (First Reading) of an Ordinance amending the Environmental Health Services' Site Mitigation Fee Schedule.
- c) Approve the introduction (First Reading) of an Ordinance amending the Environmental Health Services' Certified Unified Program Agency (CUPA) Fee Schedule; repealing the CUPA Fee Schedule from Chapter 15, Fire Prevention, Article V, Section 15-104 and amending Chapter 18C, Section 52 to include language regarding the revised fees.
- e) Read the titles of the above Ordinances into the record and waive full reading of these Ordinances.
- f) Continue the Hazardous Materials Program Fee Ordinances to the Administrative Agenda for April 9, 2019 to consider recommendations, as follows:

On April 9, 2019

- i) Consider and approve the adoption (Second Reading) of the Ordinance amending the Environmental Health Services' Site Mitigation Fee Schedule.
- ii) Consider and approve the adoption (Second Reading) of the Ordinance amending the Environmental Health Services' Certified Unified Program Agency (CUPA) Fee Schedule; repealing the CUPA Fee Schedule from Chapter 15, Fire Prevention, Article V, Section 15-104 and amending Chapter 18C, Section 52 to include language regarding the revised fees.
- iii) Find that approval of the above recommended actions is exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080(b)(8)(A) & (B) and CEQA Guidelines Section 15273 because the fees will be used for operating expenses and for the purchase of supplies, equipment and materials and direct staff to file a Notice of Exemption on that basis (Attachment E).

**Summary Text:**

The Public Health Department's (PHD) Environmental Health Services Program requests your Board to consider the adoption of two fee schedule ordinances for hazardous materials programs: 1) Site Mitigation, as set forth in County Code Chapter 18, Article VII, §18-49; and 2) Certified Unified Program Agency (CUPA) as set forth in County Code Chapter 18C, Article III. Adoption of these fee ordinances will concurrently remove the fee schedule for Site Mitigation and CUPA from County Code Chapter 15 Article V, Fire Prevention and will amend fee requirement references in County Code Chapter 18C. Site Mitigation and CUPA fees were last updated January 13, 2012 (via action of the Fire Department). Both hazardous materials programs transferred from the Fire Department to the PHD, within the Environmental Health Services program, effective July 1, 2013 for FY 2013-2014.

**Background:**

PHD's Environmental Health Services (EHS) administers both the Site Mitigation Unit and the CUPA.

**Site Mitigation**

The Site Mitigation Unit (SMU) provides regulatory oversight for site assessment and corrective actions at properties where hazardous substance releases have occurred that are not associated with a leaking underground fuel tank system, which are regulated by EHS under a grant from the State. The primary goal of the SMU is to protect health and natural resources by ensuring appropriate steps are taken to mitigate and cleanup land and water contaminated with hazardous materials. SMU cases include releases of crude oil and other hazardous substances, toxic heavy metals, oilfield restoration, properties contaminated by former industrial/commercial uses and sites with historic contaminated fill.

The fee structure for the SMU is recommended to continue with an hourly rate fee and the addition of two fixed fee review categories previously not charged. The SMU program cost is \$421,500 and revenue is estimated to increase by \$117,100 for full cost recovery. The SMU program is a voluntary program and has been growing over the past few years. Therefore, the \$117,100 reflects increased costs as well as growth in the program.

**CUPA**

Santa Barbara County is certified by the California Environmental Protection Agency (Cal EPA) as the Certified Unified Program Agency (CUPA) for the entire County. The CUPA regulates

businesses that handle hazardous materials, generate or treat hazardous waste, or operate aboveground or underground storage tanks. Additionally, the CUPA provides after hours response and assistance capability for incidents involving releases of hazardous materials. The primary goal of the CUPA is to protect public health and the environment by promoting compliance with applicable laws and regulations.

All inspectors in the CUPA are trained Hazardous Materials Specialists who take part in continuous education programs to ensure consistency and uniformity during inspections.

The CUPA is responsible for the following consolidated environmental programs:

1. Hazardous Materials Release Response Plans & Inventory (Business Plans)
2. Underground Storage Tanks (UST)
3. Hazardous Waste Generators, including Onsite Hazardous Waste Treatment (Tiered Permitting)
4. Aboveground Petroleum Storage Act (APSA)
5. California Accidental Release Prevention (CalARP)

### **Hazardous Materials Release Response Plans & Inventory (Business Plan)**

The Hazardous Materials Business Plan requires businesses that handle, use, or store reportable amounts of hazardous materials submit inventories, site maps, and other documentation relating to those materials to the CUPA. Furthermore, businesses are required to develop appropriate employee training and emergency procedures. The Business Plan is submitted to the CUPA through the California Environmental Reporting System (CERS). The CUPA reviews all Business Plans for completeness and accuracy. The CUPA ensures access to this information for emergency first response agencies.

The Business Plan fee categories are recommended to change from *count of chemicals on site* to *volume of chemicals (lbs., gallons, cubic feet)*. The Business Plan program cost is \$651,200 and revenue estimated to increase by \$153,200 for full cost recovery.

### **Underground Storage Tank**

An underground storage tank (UST) system includes the tank itself and the associated piping and monitoring system. Fuel leaks from underground storage tanks can pose a risk of fire and explosion and contaminate drinking water supplies. The State of California has enacted a series of laws designed to prevent such leaks. The CUPA enforces these requirements, which include:

- Installation or modification plan review and inspection;
- Annual certification and inspection of leak monitoring equipment;
- Testing of secondary containment systems every 36 months;
- Post-installation UST testing (enhanced leak detection).

The UST fee categories are recommended to change from a *single fee per tank* to a *single fee per first tank and a reduced fee for each subsequent tank*. The program cost is \$359,500 and revenue is estimated to increase by \$86,400 for full cost recovery.

### **Hazardous Waste Generator**

The Hazardous Waste Generator Program covers businesses that generate any quantity of hazardous waste. Waste is generally considered hazardous if it is ignitable, corrosive, toxic or reactive or is

shown to be detrimental to public's health and/or the environment. The CUPA inspects businesses generating hazardous waste to determine compliance with state laws.

### **Hazardous Waste Treatment (Tiered Permitting)**

Hazardous waste treatment requires a Tiered Permitting process that refers to a graduated series of requirements applicable to hazardous waste generators conducting onsite treatment of their own hazardous waste. If a business treats the hazardous waste it generates, the business is subject to tiered permitting requirements.

The level of regulation is scaled to the relative risk and complexity involved under each treatment tier. In ascending order, the tiers are:

- Conditional exemption (CE)
- Conditional authorization (CA)
- Permit by rule (PBR)

The Hazardous Waste Generator fee categories are recommended to remain the same. The program cost is \$686,800 and revenue is estimated to increase by \$49,600 for full cost recovery.

### **Aboveground Petroleum Storage Act (APSA)**

Facilities with aboveground tanks that contain petroleum-based products are required to prepare a Spill Prevention Control and Countermeasure (SPCC) Plan. Examples of petroleum-based products are fuel, solvent, lubricants, used oil, etc.

The CUPA is required to conduct inspections at tank facilities to determine compliance with the SPCC plan requirements of APSA.

The APSA fee categories are recommended to change and expand from two categories to four categories, based on gallons. The program cost is \$76,800 and revenue is estimated to increase by \$18,400 for full cost recovery.

### **California Accidental Release Prevention (CalARP)**

The purpose of the California Accidental Release Prevention (CalARP) Program is to prevent the accidental releases of specified highly hazardous substances and to reduce the consequences in the event a release occurs.

This program requires businesses that handle these regulated substances to develop and maintain a Risk Management Plan (RMP). The main components of an RMP are: hazard assessment, prevention, and emergency response. Staff reviews all components of the RMP to ensure completeness and inspect RMP facilities for compliance.

The CalARP program fees are recommended to change from strictly an *hourly rate* to a *tiered annual base fee plus an hourly rate*. The program cost is \$88,700 and revenue is estimated to increase by \$62,000 for full cost recovery.

### **Programs Summary:**

In FY 2013-2014, when the Hazardous Materials and Waste programs were moved into EHS, it was accomplished with no General Fund contribution or any increases to EHS's administrative, I.T. or fiscal staffing or cost structure. Because there was no increase in administrative costs, merging the hazardous materials and waste programs into EHS shifted administrative costs from the existing EHS programs into the CUPA and Site Mitigation programs. EHS used the first years with these hazardous materials

and waste programs to gain experience and integrate staff and resources in order to develop good data for resource and activity-based costing. Once a solid understanding of the program resources and costs were known, EHS included the hazardous materials and waste programs with its other EHS programs for a fee analysis and realignment, initiated in late 2015 using MGT of America, Inc. (MGT). MGT has provided activity-based costing analyses to public agencies for many years with specific expertise with EHS fees. MGT worked with the Environmental Health Services programs to understand the nature of the work and craft the fees in the best interest of the program and community while working within the state and local codes. Under Board direction, the recommended actions will bring the fees in line with the costs of providing the specified services.

Additionally, all of the fee schedule categories have been rounded to the nearest whole dollar. Both ordinances include a charge for copying (which remains 0.35¢ and was not rounded to the dollar) and a Returned Check fee of \$41. Government Code §6157 allows a reasonable charge not to exceed the cost of processing and collection. EHS will continue to collect and transmit the State surcharges on CUPA fees quarterly, within 30 days after quarter end, as required.

**Fiscal and Facilities Impacts:**

Budgeted: No fee changes were budgeted in FY 18-19. The PHD’s Recommended FY 19-20 includes all fee recommendations.

**Fiscal Analysis:**

Approving the recommended fee changes for the Environmental Health Services Hazardous Materials programs will align the fees to more accurately reflect the costs and resources of providing services. The fee changes should result in an overall estimated annual increase of approximately \$486,700 (total of all programs). Per Board direction, this will allow the programs’ full cost recovery for services.

Program	Current Revenue	Cost	Change	Percent Change
Site Mitigation	\$304,400	\$421,500	\$117,100	38%
CUPA				
Business Plan	498,000	651,200	153,200	31%
Hazardous Waste Generator	637,200	686,800	49,600	8%
Underground Storage Tank	273,100	359,500	86,400	32%
Aboveground Petroleum Storage Act	58,400	76,800	18,400	32%
California Accidental Release Prevention	26,700	88,700	62,000	232%
	<u>\$1,797,800</u>	<u>\$2,284,500</u>	<b>\$486,700</b>	<b>27%</b>

An estimated \$40,000 in Stand-by costs were not included in the fee calculations. These fees are based on the County’s standard \$3.00 per hour (per the Engineer and Tech Union MOU) and can be calculated to be part of the Generator program fees, which would increase each fee by \$30.00. Instead, the department would like to use categorical Generator designation funding. Because CUPA fees are categorical, in previous years, when revenues exceeded costs (mainly due to vacancies) the revenue was designated for future use in that program. As a result, this funding is available for the next few years to cover these stand-by costs until the department returns to your board in 2-3 years to update these new fees. Consistent with other CUPA jurisdictions, the Emergency Response costs, not recovered by direct billing, are funded through the Generator fees. The FY 2019-2020 Recommended Budget includes Stand-by costs funded by a designation of categorical funds that can be used for this purpose.

As mentioned in the Background section, the PHD accepted the Hazardous Materials program and had to use the fee structure used by the Fire Department until it had sufficient data to set resource and cost-based fees in the Environmental Health Services Program structure. Because the current Fire Department fees weren't adequate in all programs, the current Hazardous Materials programs' budget has been balanced with limited discretionary funding.

The State of California conducts a site evaluation triennially on the CUPA programs. A deficiency was cited regarding implementing fees designed to encourage efficient and cost-effective operations. These fees satisfy that deficiency.

As the changes in fees affect the structure of the categories, it is anticipated that time will be needed to rewrite the database reports, invoicing and permitting. Therefore, it is requested that the fees be effective July 1, 2019.

**Special Instructions:**

1. Request the Planning and Development Department to post the Notice of Exemption for the ordinances 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.
2. Please return one fully executed copy of the Ordinances and Minute Orders to the Public Health Department, Contracts Unit at 300 N. San Antonio Road, Santa Barbara, CA 93110 and email an electronic copy of the Minute Order to PHD Contracts Unit at [PHDRES.contractsunit@sbcphd.org](mailto:PHDRES.contractsunit@sbcphd.org).

**Attachments:**

- A – Ordinance amending fees for the Environmental Health Services' Site Mitigation Program.
- B1 – Ordinance amending fees for the Environmental Health Services' CUPA Program
- B2 – Mark up version of Chapter 15, Article V, Section 15-104
- B3 – Mark up version of Chapter 18C, Article III
- C – Comparison Counties
- D – MGT Cost of Services Report Findings
- E – CEQA Notice of Exemption
- F – Presentation for Fees Adjustment for Hazmat and Community Health

**Authored by:**

Larry Fay, EHS Director  
Stacy Covarrubias, PHD Cost Analyst