

Staff Report on the Determination and
Apportionment of Certain Environmental Health
Division Fees

Contra Costa County
Environmental Health Division



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INTRODUCTION

This document addresses proposed fees to fund the Environmental Health Division (“Environmental Health” or “EH”) of the Contra Costa County Health Services Department in 2019. The first part of this document is an overview of laws that authorize Environmental Health to conduct specified activities and collect fees to fund those activities. The second part discusses the data and methodology used to set the adjusted fees.

In December 2014, the Board of Supervisors approved Resolution No. 2014/381, adjusting fees that fund the majority of EH programs. A new fee was added last year, with the adoption of Resolution No. 208/31, to fund costs associated with a new non-franchise solid waste hauler permitting program, but other fees were left unchanged at that time. An increase in staff wages (negotiated from 2016 through 2022), a planned staff expansion to include a total of 39 EH specialists, and new programs now necessitate another adjustment of the fees.

GENERAL OVERVIEW

Environmental Health comprises a wide variety of programs designed to protect and promote the health of the people of Contra Costa County by regulating food, drinking water, sewage disposal, solid waste handling and other matters. Legal authority to operate these programs is derived from the Health and Safety Code, Government Code, Public Resources Code, Water Code and California Code of Regulations and the police power under the California Constitution.

Section 101030 of the Health and Safety Code requires the county health officer to enforce and observe, in the unincorporated territory of his county, all of the following:

- a) Orders and ordinances of the board of supervisors, pertaining to the public health and sanitary matters.
- b) Orders, including quarantine and other regulations, prescribed by the State Department of Health Services.
- c) Statutes relating to public health.

Authority for the county health officer to provide health services within incorporated areas is found in Section 101375 of the Health and Safety Code, which provides that when the governing body of a city in the county consents by resolution or ordinance, the county health officer shall enforce and observe in the city all of the following:

- a) Orders and quarantine regulations prescribed by the State Department of Health Services and other regulations issued under the provisions of Health and Safety Code.
- b) Statutes relating to the public health.

Eighteen cities and towns in Contra Costa County have affirmed by resolution to have the county health officer perform these services.

Additionally, state regulations require local health departments to offer certain basic services in order to qualify for specified state funding, including the following environmental health and sanitation services and programs:

- Food.
- Housing and institutions.

- Radiological health in local jurisdictions contracting with the State Department of Health Services to enforce the Radiation Control Law pursuant to Sections 25600-25654 and Sections 25800-25876 of the Health and Safety Code.
- Milk and dairy products in local jurisdictions maintaining and approved milk inspection service pursuant to Section 32503 of the Food and Agriculture Code.
- Water oriented recreation.
- Safety.
- Vector control.
- Waste management.
- Water supply.
- Air sanitation.
- Additional environmentally related services and programs as required by the County Board of Supervisors, City Council, or Health District Board.
- And may include land development and use.¹

Environmental Health carries out some but not all of these services and programs. There are no commercial dairies in the county; thus, there is no milk and dairy program here. As allowed by state law, all 19 cities have opted to oversee the housing code in their jurisdictions. In the unincorporated area, the Department of Conservation and Development (DCD) carries out most housing oversight. A separate vector control district was established by the County to carry out vector control. Air quality is regulated by the Bay Area Air Quality Management District. In Contra Costa County, the state retains responsibility for radiation programs.

In addition to carrying out health officer duties, Environmental Health is the state-certified solid waste local enforcement agency (LEA)² and in that capacity provides oversight of solid waste activities. LEA functions are part of the EH Solid Waste Program. Staff assigned to the Solid Waste Program also perform duties concerning waste tires, stormwater, and body art. The waste tire program is state-funded, and the stormwater program is funded via a memorandum of understanding with the Contra Costa County Public Works Department. The LEA solid waste activities are funded in part by tipping fees applied to solid waste that is generated.

Environmental Health also regulates medical waste disposal, body art facilities, cottage food operations in accordance with state laws, will soon begin issuing commercial cannabis permits, and administers various local programs, including the solid waste hauler program, and new pharmaceutical take-back program.

ENVIRONMENTAL HEALTH MANDATES AND FEE AUTHORITY

Health Safety Code Section 101325 provides the following general fee authority:

Whenever the governing body of any city or county determines that the expenses of the local health officer or other officers or employees in the enforcement of any statute, order, quarantine, or regulation prescribed by a state officer or department relating to public health, requires or authorizes its health officer or other officers or employees to

¹ [Cal. Code Regs., tit. 17, §§ 1275 & 1276., subd. \(e\).](#)

² Correspondence from Myron H. "Skip" Amerine, REHS, Permitting, California Integrated Waste Management Board to Charles Nicholson, Contra Costa County. Dated July 27, 1992. Subject: Issuance of Certification(s) to and Approval of the Designation for the Contra Costa County Health Services Department, Division of Environmental Health as the Local Enforcement Agency for the Jurisdiction of Contra Costa County.

perform specified acts that are not met by fees prescribed by the state, the governing body may adopt an ordinance or resolution prescribing fees to pay the reasonable expenses of the health officer or other officers or employees incurred in the enforcement, and may authorize a direct assessment against the real property in cases where the real property is owned by the operator of a business and the property is the subject of the enforcement. The schedule of fees prescribed by ordinance or resolution shall be applicable in the area in which the local health officer or other officers or employees enforce any statute, order, quarantine, or regulation prescribed by a state officer or department relating to public health.

The Board of Supervisors has made the determination set forth in the above statute. This means that when the health officer is required or authorized to enforce state requirements, and fees set by statute are not sufficient to fund those efforts, the Board of Supervisors is authorized to prescribe fees to cover the reasonable costs incurred in doing so. Contra Costa County Ordinance Code section 413-3.204 provides that fees prescribed in the Ordinance Code “will help pay the health officer’s reasonable expenses incurred in such enforcement.”

A prerequisite to the imposition of fees under Health and Safety Code section 101325 is either a state mandate or state authorization for Environmental Health to perform the services and provide the programs that are to be funded by fees. Fees that are not imposed under that statute must be authorized by either a different statute or by the Board of Supervisors.

EH staff carries out activities that generally include:

- Review construction plans and other documents.
- Conduct inspections of permitted activities and construction.
- Pursue corrective and enforcement action when out of compliance activities are observed or confirmed.
- Develop departmental policies and guidelines and update existing policy memoranda as necessary.
- Analyze proposed legislation and regulations as part of coordinated local jurisdiction effort.
- Investigate all complaints, identify appropriate action or refer to appropriate agency, and follow up with complainant describing steps taken.
- Respond to inquiries from clients, Board of Supervisors and their staff, other agencies and stakeholders in a timely manner, usually within one day.
- Conduct outreach and education activities to decrease the need for enforcement and promote environmental health responsibilities.
- Prepare for and respond to emergency incidents and provide for public and environmental protection and public safety.

A review of the EH programs that the proposed fees will fund follows.

A. FOOD PROGRAM

The Food Program consists of three elements: (1) Food facility operations; (2) food facility plan checks and construction; and (3) cottage food operations. Fee adjustments are proposed in all elements.

i. FOOD FACILITY OPERATIONS

Food facilities in Contra Costa County are required to obtain an operating permit from Environmental Health.³ Food facilities include food establishments, vending machine businesses, taverns, cocktail lounges, bars, snack bars, commissaries, cart commissaries, food catering, special events food booths, school cafeterias, itinerant food facilities, retail food markets, roadside food stands, food salvagers, retail food vehicles, mobile food preparation units, bakeries, incidental retail food markets, and certified farmers' market.⁴ Environmental Health issued operating permits to more than 4,700 fixed food facilities and 345 mobile food facilities in 2019.

In addition to routine inspections of food facilities, Environmental Health has authority to impound food, equipment, or utensils that are found to be, or suspected of being unsanitary or in such disrepair that food, equipment, or utensils may become contaminated or adulterated, and inspect, impound, or inspect and impound any utensil that is suspected of releasing lead or cadmium in violation of Section 108860.⁵

ii. FOOD FACILITY PLAN CHECKS AND CONSTRUCTION

Food facilities that are built or remodeled may not be placed in operation without first receiving a permit to operate, which is issued by Environmental Health upon the satisfactory completion of construction.⁶ State law establishes construction standards and plan submittal and review requirements applicable to food facilities. The law requires the local health agency to review the plans for new and remodeled food facilities within 20 working days after receipt.⁷ The goal in Environmental Health is to complete food facility plan reviews and either approved or rejected plans within 15 working days.

Staff assigned to this element also evaluates cooking equipment as to the need for and type of mechanical ventilation to be provided⁸ and the acceptability of new types of food equipment to be used for use in restricted food service facilities.⁹

iii. COTTAGE FOOD OPERATIONS

Cottage food operations are enterprises that involve the preparation or packaging of specified foods in private residences and have gross annual sales that do not exceed statutory maximums. A Class A cottage food operation may engage only in direct sales to consumers, while Class B operations may engage in either direct sales to consumers or indirect sales through third party retailers.¹⁰ All cottage food facilities must comply with requirements pertaining to sanitation and food labeling and workers must receive regular food processing training.¹¹

³ [Health & Saf. Code, § 114381.](#)

⁴ [CCC Ord. Code, § 413-3.604.](#)

⁵ [Health & Saf. Code, § 114393.](#)

⁶ [Health & Saf. Code, § 114380.](#)

⁷ [Health & Saf. Code, § 114380, subd. \(e\).](#)

⁸ [Health & Saf. Code, § 114149.1, subd. \(c\).](#)

⁹ [Health & Saf. Code, § 114130, subd. \(c\).](#)

¹⁰ [Health & Saf. Code, § 113758.](#)

¹¹ [Health & Saf. Code, § 114365.2.](#)

A Class A cottage food operation must be registered with the local enforcement agency, but is not subject to initial or routine inspections.¹² Inspections may be made only if a consumer complaint has been made.¹³ If an inspection is made and a Class A cottage food operation is found to be in violation, the local enforcement agency has authority to seek recovery from the operation of an amount that does not exceed the agency's reasonable inspection costs.¹⁴ Environmental Health is the local enforcement agency as to cottage food operations in its jurisdiction.

A Class B cottage food operation must obtain a permit from the local enforcement agency and is subject to a yearly inspection.¹⁵

B. RECREATIONAL HEALTH PROGRAM

The Recreational Health Program consists of three elements: (1) Lakes and beaches; (2) public swimming pools/spas; and (3) public pool plan checks and construction.

i. LAKES AND BEACHES

The purpose of this program element is to enforce sanitation standards at public beaches as defined in Health and Safety Code section 115875, subdivision (a). The health officer is charged with testing the waters adjacent to, and coordination the testing of, all public beaches within his or her jurisdiction.¹⁶ This can be done by utilizing test results from other parties conducting microbiological contamination testing of these waters.¹⁷ EH staff, which have been delegated the health officer's duties regarding public beaches, fulfills this duty by reviewing bacteriological sampling results.

The health officer is also required to, at a minimum, post a beach with warning signs to inform the public when the beach fails to meet the bacteriological standards.¹⁸ Other duties include inspecting the beaches for compliance with state sanitation standards pertaining to certain bacteria and other microbiological indicators, investigating complaints of violations of those standards, informing the agency responsible for the operation and maintenance of the beach whenever a beach is posted, closed or otherwise restricted, establishing a telephone hotline to inform the public of beaches currently closed, posted or otherwise restricted, reporting violation to the district attorney or city attorney, as applicable, testing waters adjacent to the beach in the event of a known untreated sewage release, and closing recreational waters adjacent to a beach in the event of an untreated sewage release that reaches those waters.¹⁹

EH staff also reviews plans and specifications for the construction, reconstruction or alteration of public beach sanitation facilities.²⁰

¹² [Health & Saf. Code, § 114365, subds. \(a\)\(1\)\(A\), \(a\)\(1\)\(C\)\(i\).](#)

¹³ [Health & Saf. Code, § 114365, subd. \(a\)\(1\)\(C\)\(ii\).](#)

¹⁴ [Health & Saf. Code, § 114365, subd. \(a\)\(1\)\(C\)\(iv\).](#)

¹⁵ [Health & Saf. Code, § 114365, subd. \(a\)\(2\)\(B\)\(i\)-\(ii\).](#)

¹⁶ [Health & Saf. Code, § 115880, subd. \(e\).](#)

¹⁷ [Health & Saf. Code, § 115880, subd. \(f\).](#)

¹⁸ [Health & Saf. Code, § 115915, subd. \(a\).](#)

¹⁹ [Health & Saf. Code, § 115885, subd. \(a\)\(1\)-\(7\).](#)

²⁰ [Cal. Code Regs., tit. 17, § 7980.](#)

ii. PUBLIC SWIMMING POOLS/SPAS

Persons operating or maintaining a public swimming pool²¹ must do so in a sanitary, healthful and safe manner.²² The health officer is authorized to inspect the sanitary condition of public swimming pools²³ and a condition at a public swimming pool that constitutes a nuisance may be abated or enjoined.²⁴

An environmental health permit is required to operate public swimming pools, including spas.²⁵ In 2019, Environmental Health issued approximately 1,600 permits for public swimming pools and spas in Contra Costa County. The Ordinance Code requires payment of a fee for an annual operating permit.²⁶

iii. PUBLIC POOL PLAN CHECKS AND CONSTRUCTION

New public pools may not be placed in operation without first receiving a permit to operate. Operating permits for new, reconstructed or altered pools are issued by Environmental Health upon the satisfactory completion of constructions. The health officer is authorized to enforce building standards applicable to public swimming pools.²⁷

The purpose of this element is to enforce state laws and regulations pertaining to the design, construction and inspection of new pools. Title 24 of the California Code of Regulations establishes the standards for design of construction, reconstruction or alternation of swimming pools in compliance with plans approved by the "enforcing agent"²⁸ which is either the health officer or environmental health director or their designated representatives.²⁹ The regulations authorize inspections to be scheduled and conducted by the enforcing agent at three phases of construction.³⁰ A pool may not be opened to the public without written approval by the enforcing agent.³¹

C. HOUSING AND INSTITUTIONS PROGRAM

The Housing and Institutions Program consists of two elements: (1) Jail/detention facilities and (2) organized camps.

i. JAILS/DETENTION FACILITIES

The county health officer is required to inspect health and sanitary conditions in every county jail and every other publicly operated detention facility in the county at least annually.³² Deficiencies are reported to the responsible city/county officials and to the State Board of Corrections. Under this statute, EH staff inspects 10 city detention facilities, four Superior Court temporary holding facilities, three adult detention facilities, and two juvenile detention facilities.

²¹ Public swimming pools include any public swimming pools, bathhouse, public swimming and bathing place and all related appurtenances. ([Health & Saf. Code, § 116025.](#))

²² [Health & Saf. Code, § 116040.](#)

²³ [Health & Saf. Code, § 116055.](#)

²⁴ [Health & Saf. Code, § 116063.](#)

²⁵ [CCC Ord. Code, § 413-3.604.](#)

²⁶ [CCC Ord. Code, § 413-3.802.](#)

²⁷ [Health & Saf. Code, § 116053.](#)

²⁸ [Cal. Code Regs., tit. 24, § 3103B.1.](#)

²⁹ [Cal. Code Regs., tit. 22, 65501, subd. \(d\).](#)

³⁰ [Cal. Code Regs., tit. 24, § 3105B.](#)

³¹ [Cal. Code Regs., tit. 22, § 65511; Cal. Code Regs., tit. 24, § 3105B.](#)

³² [Health & Saf. Code, § 101045.](#)

ii. ORGANIZED CAMPS

The local health officer is required to enforce building standards relating to organized camps.³³ An organized camp is “a site with program and facilities established for the primary purposes of providing an outdoor group living experience with social, spiritual, educational, or recreational objectives, for five days or more during one or more seasons of the year.”³⁴ State regulations require organized camps to be free or protected from hazards such as large numbers of insects and venomous snakes and uncontrolled poison oak.³⁵ Organized camps must have an adequate and dependable supply of potable water, handwashing facilities adjacent to flush toilets, showers when campers are present three or more consecutive days and nights, and toilets.³⁶ Housing must be kept in good repair and maintained in a safe and sanitary condition.³⁷ Food facilities must comply with the California Retail Food Code³⁸ and swimming facilities must be designed and constructed in accordance with specified requirements.³⁹

Under state regulations, the site operator of an organized camp must submit various written notices to the health officer. Camps that operate year-round must submit an initial notice of operation. Other camps must submit a notice of intention to operate at least 30 days prior to the operation of any camp in any calendar year.⁴⁰ Written notices must also be sent to the health officer prior to construction of a new camp, major expansion or changes in ownership, operation or dates of occupancy.⁴¹ Annually and upon change of ownership, the site operation is also required to submit to the health officer either written verification of American Camp Association accreditation or written description of operating procedures for organized and supervised activities of the camp (including an emergency plan). EH reviews this documentation to see if it meets the minimum state requirements and provides written acknowledgment of receipt as required by regulation.⁴²

No inspection requirement is stated in the laws or regulations, but the need to inspect is clearly implied. EH inspects each year round organized camp twice a year and each seasonal organized camp once a year.

D. PROGRAMS RELATED TO MEDICAL PROCEDURES

Program elements related to medical procedures pertain to (1) body art and (2) medical waste.

i. BODY ART

State law prohibits a body art facility from conducting business without a valid health permit issued by the local enforcement agency⁴³ and requires body art practitioners (persons who perform body art) to register with the local enforcement agency and, if they practice at temporary body art events, obtain all necessary permits to conduct business, including a valid permit from the local enforcement agency.⁴⁴ The sponsors of temporary body art events must also obtain permits from the local enforcement agency.⁴⁵ The Health

³³ [Health & Saf. Code, § 18897.4.](#)

³⁴ [Health & Saf. Code, § 18897, subd. \(a\).](#)

³⁵ [Cal. Code Regs., tit. 17, § 30702.](#)

³⁶ [Cal. Code Regs., tit. 17, § 30712](#)

³⁷ [Cal. Code Regs., tit. 17, § 30722, subd. \(a\).](#)

³⁸ [Cal. Code Regs., tit. 17, § 30730.](#)

³⁹ [Cal. Code Regs., tit. 17, § 30740.](#)

⁴⁰ Cal. Code Regs., tit. 17, § 30703, subd. (a).

⁴¹ Cal. Code Regs., tit. 17, § 30703, subd. (b).

⁴² Cal. Code Regs., tit. 17, § 30703, subd. (c).

⁴³ [Health & Saf. Code, § 119312.](#)

⁴⁴ [Health & Saf. Code, § 119306](#)

⁴⁵ [Health & Saf. Code, § 119308, subd. \(a\).](#)

Services Department is the local enforcement agency in the unincorporated area. The Environmental Health Director performs the functions of the local enforcement agency.⁴⁶

Under state laws, the local enforcement agency may conduct inspections, impound unsafe instruments, review a facility's infection prevention and control plan to evaluate whether it meets state law and is being followed, issue citations, and secure samples, photographs, or other evidence from a body art facility, or any facility suspected of being a body art facility.⁴⁷

A local enforcement agency may establish reasonable regulatory fees for registering body art practitioners⁴⁸ and issuing permits⁴⁹ in an amount that does not exceed, but is sufficient to cover, the costs of administration of the program.

ii. MEDICAL WASTE

Local agencies may implement a medical waste management program by the adoption of an ordinance or resolution. In 1991, the Board of Supervisors adopted Resolution No. 91/27, implementing a medical waste management program. Environmental Health has been assigned to carry out this program as the local enforcement agency. The purpose of this program is to protect the health of the public, health care facility personnel, and landfill personnel from exposure to medical wastes containing potentially communicable pathogenic organisms.

Medical waste generators are categorized based on the amount of medical waste they generate per month and whether they treat the waste on site or not. Large quantity generators, which generate 200 or more pounds of medical waste in any 12-month period, and small quantity generators, which generate less than 200 pounds of medical waste per month and treat their waste onsite by specified technology, must register with the enforcement agency⁵⁰ and file a medical waste management plan.⁵¹ EH staff processes and reviews medical waste management plans.⁵² EH staff inspects approximately 50 large quantity generators every year⁵³ and biennially inspects approximately 12 small quantity generators that treat medical waste onsite.⁵⁴ EH also conducts triennial inspections of approximately 1,350 registered, small quantity generators that do not treat onsite.⁵⁵

The local enforcement agency may prescribe, by resolution or ordinance, the registration and permit fees necessary to pay its reasonable expenses to administer this program.⁵⁶ Per County ordinance, an annual environmental health operating permit is required for medical waste generators.⁵⁷

E. LAND USE PROGRAM

The Land Use Program consists of four elements: (1) Land development project review; (2) public water systems; (3) well construction/abandonment; and (4) liquid waste.

⁴⁶ [Health & Saf. Code, § 119301.](#)

⁴⁷ [Health & Saf. Code, § 119319.](#)

⁴⁸ [Health & Saf. Code, § 119306, subd. \(b\)\(7\).](#)

⁴⁹ [Health & Saf. Code, § 119312, subd. \(b\)\(2\), 119317.5, 119318, subd. \(a\)](#)

⁵⁰ [Health & Saf. Code, § 117680, 117890, 117890, 117895](#)

⁵¹ [Health & Saf. Code, § 117935, 117960](#)

⁵² [Health & Saf. Code, § 117820.](#)

⁵³ [Health & Saf. Code, § 117965.](#)

⁵⁴ [Health & Saf. Code, § 117938, subd. \(a\).](#)

⁵⁵ [Health & Saf. Code, § 118335](#)

⁵⁶ [Health & Saf. Code, § 117825.](#)

⁵⁷ [CCC Ord. Code, § 413-3.604.](#)

i. LAND DEVELOPMENT PROJECT REVIEW

The purpose of this element is to protect against health hazards and environmental degradation that might result from land development projects. Counties are required to deny approval of subdivisions if their design is likely to cause serious public health problems or substantial environmental damage.⁵⁸

The great majority of public health and environmental problems associated with land use projects can be prevented if they are identified, evaluated and mitigated in the planning stage. Therefore, it is essential that there be environmental health participation and input during the processing of such projects by the County and cities. EH reviews documents submitted by the Department of Conservation and Development, city planning departments and other agencies for proposed site plans, subdivision proposals, zone changes, use permits, general plan amendments, environmental impact reports, and sewage disposal system and water system designs, to name a few. If, in the initial review, EH identifies that the project may have public health implications which require EH oversight, a more thorough review is completed and comments are submitted to the requesting agency. In particular, the proposed land development will be reviewed for compliance of laws, regulations, and ordinance requirements regarding domestic water supply and sewage disposal.

ii. PUBLIC WATER SYSTEMS

The goal of this element is to protect public health and prevent disease by assuring that domestic water served by water systems that serve more than two parcels and less than 200 parcels is safe, potable and available in adequate quantity and protected against contamination backflow. Among other duties, staff assigned to this element reviews the required bacteriological and chemical water test results for state small water systems.⁵⁹

The state has delegated responsibility to the county health officer under Health and Safety Code section 116330 to administer and enforce state laws pertaining to public water systems that serve fewer than 200 connections. This is referred to as a “local primacy” delegation. Environmental Health, which has been assigned to perform these duties, is known as a local primacy agency (LPA). As an LPA, Environmental Health regulates the following three types of public water systems:

- **Community water systems:** Serve at least 15 service connections used by yearlong residents or regularly serve at least 25 yearlong residents of the areas served by the system.⁶⁰ Examples might be systems serving a mobile home park or residential subdivision. In 2019, EH permitted 31 community water systems.
- **Non-transient non-community water systems:** Regularly serve 25 or more of the same persons over six months per year and is not a community water system.⁶¹ Examples might be systems that serve a school or business. In 2019, EH permitted 11 non-transient non-community systems.
- **Transient non-community water systems:** Non-community water systems that do not regularly serve 25 or more of the same persons over six months per year.⁶² Examples might be systems that serve a restaurant, campground or church. In 2019, EH permitted 47 transient non-community water systems, 3 of which used surface water as the source.

⁵⁸ [Gov. Code, § 66474, subds. \(e\) & \(f\).](#)

⁵⁹ [Cal. Code Regs., tit. 22, §§ 64212, 64213.](#)

⁶⁰ [Health & Saf. Code, § 116275, subd. \(i\).](#)

⁶¹ [Health & Saf. Code, § 116275, subd. \(k\).](#) A non-community water system is a public water system that is not a community water system. ([Health & Saf. Code, § 116275, subd. \(j\).](#))

⁶² [Health & Saf. Code, § 116275, subd. \(o\).](#)

Public water systems serving fewer than 1,000 connections must pay an annual drinking water operating fee to either the state or the local primacy agency, as applicable, to cover costs incurred from mandated activities relating to inspections, monitoring, surveillance and water quality evaluation.⁶³ Public water systems must also reimburse a local primacy agency for costs incurred pertaining to orders and citations, public notifications and hearings.⁶⁴

In addition to performing the duties of a local primacy agency, Environmental Health regulates two other types of water systems, as follows:

- **State small water systems:** These systems provide piped drinking water to the public and serve at least five but not more than 14 service connections and do not regularly serve drinking water to more than an average of 25 individuals daily more than 60 days out of the year.⁶⁵ Examples might be a system that serves a subdivision of eight homes. The local health officer enforces the minimum requirements pertaining to state small water systems.⁶⁶ The reasonable costs of the local health officer in enforcing these requirements may be recovered through the imposition of fees on state small water systems in accordance with Health and Safety Code section 101325.⁶⁷
- **Local small water systems:** “Local small water system” is the informal name given to the remainder of the water systems regulated by Environmental Health – namely, small water systems⁶⁸ that have two or four service connections. An example is a system that serves two residences on separate parcels.

The County Ordinance Code requires persons proposing to install, construct or operate a small water system to apply to the health officer for approval of the water source and utility system and pay appropriate fees.⁶⁹ The health officer may then conduct the necessary investigation and/or site evaluation of the proposed or existing system.⁷⁰ Upon approval of the completed installation of the water system, the health officer issues a water supply permit and a public health license to operate the system.⁷¹

Annual operating permits are required for all small water systems.⁷² Fees for the application, issuance, and renewal of environmental health permits are set by the Board by resolution.⁷³

iii. WELL CONSTRUCTION/ABANDONMENT

The well construction/abandonment element employs a preventive approach to protect against chemical and bacterial contamination of groundwater and protects people from safety hazards associated with improperly constructed or abandoned wells.

The County Ordinance Code requires every person proposing to dig, drill, bore or drive any water well, or rebores, deepen, cut new perforations in, or seal the aquifers of any existing well, to apply for and obtain a

⁶³ [Health & Saf. Code, §§ 116565, subs. \(a\)-\(b\) & \(f\).](#)

⁶⁴ [Health & Saf. Code, § 116595, subd. \(a\).](#)

⁶⁵ [Health & Saf. Code, § 116275, subd. \(n\).](#)

⁶⁶ [Health & Saf. Code, § 116340.](#)

⁶⁷ [Health & Saf. Code, § 116340, subd. \(c\).](#)

⁶⁸ [CCC Ord. Code, § 414-4.221.](#)

⁶⁹ [CCC Ord. Code, § 414-4.401, subd. \(a\).](#)

⁷⁰ [CCC Ord. Code, § 414-4.403.](#)

⁷¹ [CCC Ord. Code, § 414-4.401, subd. \(c\).](#)

⁷² [CCC Ord. Code, § 413-3.604.](#)

⁷³ [CCC. Ord. Code, § 413-3.1212.](#)

permit to do the work.⁷⁴ The Ordinance Code also requires abandoned wells to be destroyed in accordance with state standards.⁷⁵

When first installed, a domestic water well must also demonstrate water quality and water quantity adequacy.⁷⁶

Fees are due at time of filing for or requesting an investigation, test, inspection, or permit.⁷⁷

iv. LIQUID WASTE

The primary purpose of this element is protection of the health of the public and environment from the improper disposal of sewage. This is accomplished through measures that include the evaluation and permitting of onsite wastewater treatment systems⁷⁸ and septage haulers.⁷⁹ This element is linked to the well construction/abandonment element. Improper disposal of wastewater can result in significant groundwater and health problems, including vectors, odors and exposure to pathogens.

Activities specific to the Liquid Waste element include:

- Maintaining records of septage haulers and chemical toilet service companies.
- Working with the Regional Water Quality Control Boards to keep the local onsite wastewater treatment system program in compliance with the Basin Plan.
- Evaluating new methods of onsite wastewater treatment systems.
- Evaluating and permitting onsite wastewater treatment systems.

A permit is required to construct, alter, relocate or replace an onsite wastewater treatment system⁸⁰ and fees are collected when an applicant requests an investigation, inspection, or observation of site evaluations or tests.⁸¹ An annual environmental health permit is required for septic tank-chemical toilet cleaners.⁸²

F. SOLID WASTE PROGRAM

Solid waste needs to be properly handled or it can cause harm to public health, welfare and safety. EH is charged with enforcing state laws and local ordinances aimed at controlling the collection, treatment and disposal of solid waste.

i. STATE-AUTHORIZED SOLID WASTE FACILITIES/OPERATIONS

State law authorizes local agencies to enforce requirements pertaining to solid waste facilities and solid waste handling and disposal if they are designated by the governing body and certified by the state as a local enforcement agency (LEA).⁸³

⁷⁴ [CCC Ord. Code, § 414-4.801, subd. \(a\).](#)

⁷⁵ [CCC Ord. Code, § 414-4.809.](#)

⁷⁶ [CCC Ord. Code, § 414-4.601.](#)

⁷⁷ [CCC Ord. Code, § 414-4.1201.](#)

⁷⁸ [CCC Ord. Code, § 420-6.](#)

⁷⁹ [Health & Saf. Code, § 117405.](#)

⁸⁰ [CCC Ord. Code, § 420-6.806.](#)

⁸¹ [CCC Ord. Code, § 420-6.2004, subd. \(a\).](#)

⁸² [CCC Ord. Code, § 413-3.604.](#)

⁸³ [Pub. Resources Code, § 43200 et seq.](#)

Currently, LEA staff oversees six full permit facilities, two registration tier permit facilities, and seven enforcement agency notification sites. The full permit and registration sites must be inspected monthly, while notification sites are inspected quarterly.

The LEA may prescribe, revise, and collect fees or other charges from each operator of a solid waste facility or from any person who conducts solid waste handling if the local governing body having rate setting authority has approved rate adjustments to compensate the solid waste hauler or solid waste facility operator for the amount of the fee or charges imposed pursuant to this section.⁸⁴ Fees may also be based on volume or type of solid waste or on any other appropriate basis. Currently, a solid waste fee is collected based on tonnage⁸⁵, and other time-based fees are charged based on hourly rates. No changes to LEA fees are being proposed at this time.

ii. LOCAL SOLID WASTE REQUIREMENTS

Mandatory garbage service has been required in the unincorporated area since 1985.⁸⁶ With limited exceptions, a residential, hotel, bar or food establishment must have weekly pickup of solid waste. EH is charged with enforcing this ordinance, and as such is given authority to subscribe a property for garbage service if the owner does not comply with directions to do so and to take enforcement action against the owner to recover the costs of collection. Exemptions from the mandatory subscription requirement may also be granted in specified circumstances.

In 2017, the Board of Supervisors amended the County Ordinance Code to requiring a non-franchise solid waste hauler to obtain an annual permit to collect and transport solid waste in the unincorporated area of the county.⁸⁷ This is one of several actions taken to address the problems of illegal dumping of solid waste. EH first reaches out to solid waste franchise agencies to seek verification that an applicant's proposed activities do not conflict with franchise agreements. An applicant must have the required commercial insurance and provide a bond. EH then inspects each transport vehicle to determine if it can safely haul the solid waste. The permitted hauler must submit quarterly load reports indicating the pick-up location, amount of solid waste collected, and disposal locations.

On December 20, 2016, the Board of Supervisors adopted Ordinance No. 2016-24, requiring pharmaceutical drug manufacturers to provide for the collection of unused drugs, in an effort to prevent accidental poisonings or intentional misuse of drugs such as prescription opioids.⁸⁸ EH enforces the ordinance by inspecting and approving initial and amended stewardship plans. After plan approval, EH receives and reviews annual reports from plan operators.

G. CANNABIS

Article 413-4 of the County Ordinance Code requires that any person conducting any commercial cannabis activity in the unincorporated area of the County to obtain a health permit from the Environmental Health Division. The requirement to obtain a health permit also applies to any commercial cannabis delivery business located outside the unincorporated area of the County that delivers cannabis or cannabis products to any location in the unincorporated area of the County. The health permit requirement is in addition to any other state or locally required permits or licenses.

⁸⁴ [Pub. Resources Code, § 43213.](#)

⁸⁵ Resolution No. 88/783.

⁸⁶ [CCC Ord. Code, § 418-6.](#)

⁸⁷ [CCC Ord. Code, § 418-2.](#)

⁸⁸ [CCC Ord. Code, § 418-16.](#)

Pursuant to the County Ordinance Code, the Environmental Health Division will enforce general health standards that apply to all commercial cannabis activities (e.g., odor control, no consumption on site) and other standards specific to the activity conducts. Specific standards apply to manufacturing (e.g., the use of volatile solvents is prohibited), retail sale (e.g., transaction limits on edible cannabis products, requirements for consumer warnings), and retail delivery (e.g., delivery employees are required to examine government issued identification cards upon delivery). Consistent with the County's tobacco control ordinance, the sale or delivery of flavored cannabis products for which the primary use is human inhalation is also prohibited.

Permitted commercial cannabis activities and cannabis delivery operations must comply with all State and local laws, maintain a valid State license and County business license, and maintain a valid County land use permit if required.

The Environmental Health Division reviews applications, issue commercial cannabis health permits, inspects commercial cannabis activity premises and delivery vehicles, and takes enforcement actions for violations of the permit terms, the health permit ordinance, or other State or local laws and regulations.

METHODOLOGY USED TO DEVELOP EH FEES

A. LEGAL STANDARDS

Environmental Health fees, which cover costs associated with issuing permits, conducting inspections and administrative enforcement activities, are regulatory fees⁸⁹ that may be imposed by the Board of Supervisors.

Regulatory fees are fees charged in connection with regulatory activities that “do not exceed the reasonable cost of providing services necessary to the activity for which the fee is charged and which are not levied for unrelated revenue purposes.”⁹⁰ A local agency imposing a regulatory fee, or any other type of levy, charge or exaction, must establish that it is not a tax, that the amount is no more than necessary to cover the reasonable costs of the government activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor’s burdens on, or benefits received from, the governmental activity.⁹¹

B. EXPENSE PROJECTION PROCESS

The first step in the fee setting process is to project expenses of the fee-funded Environmental Health programs, which include staff salaries and benefits, services and supplies, indirect administration and county overhead costs. Staff salaries and benefits make up the bulk of those expenses.

i. SALARIES AND BENEFITS

Expenses are projected differently based on the specific expense categories. Projections of salary and benefit expenses of Environmental Health as a whole for Fiscal Year 2019-2020 include negotiated salary and benefit increases and an increase of two (2) full-time equivalent positions.

The projections of salary and benefit expenses in individual programs begin with an analysis of time data recorded by field inspectors, which is tracked by program element as well as service codes that describe the activities performed. Some activities are specific to a program element; for example, the annual inspection of operations of a food facility, or reviewing construction plans for a swimming pool. Other work is not tied to a particular program element, such as staff meetings, office functions, emergency operations and training. Time spent on that work is referred to as distributed time, and the cost of that time is distributed to each program element in proportion to the hours spent in each program. Salaries and benefits of administrative and clerical support staff are also assigned proportionally to each program, but included in overhead costs in the hourly rate calculation.

ii. SERVICES AND SUPPLIES

The projection of expenses in the services and supplies category for Fiscal Year 2019-2020 is based, first, on the service and supply costs incurred in the previous fiscal year. Anticipated expenses from contractors and vendors may account for cost of doing business and inflation increases, as applicable. Where higher or lower expenditures were determined to be likely in Fiscal Year 2019-2020, adjustments were made to the projected amount.

⁸⁹ [Cal. Const., art. XIII C, § 1, subd. \(e\)\(3\).](#)

⁹⁰ *Sinclair Paint Co. v. State Bd. of Equalization* (1997) 15 Cal.4th 866, 876.

⁹¹ Cal. Const., art. XIII C, § 1, subd. (e).

iii. INDIRECT ADMINISTRATION COSTS; COUNTY OVERHEAD COSTS

Indirect administration and county overhead costs (described below) are allocated to the Environmental Health Division as a whole by the Health Services Department.

C. NECESSITY OF SERVICES AND REASONABLENESS OF ASSOCIATED COSTS

Environmental Health's fee-funded programs provide services that are either mandated or authorized by state law or County ordinance. As a matter of public policy, these services have been determined to be necessary to protect public health. The time spent on activities that are conducted in order to provide those services – most of which is spent on mandated inspections – is also necessary, and the costs to fund those activities are reasonable, as demonstrated below.

i. SALARIES AND BENEFITS

a) Environmental Health Specialists

The most significant costs incurred by Environmental Health are the salaries and benefits of its personnel, particularly those who perform the inspections for the various programs. Staff anticipates that a total of 39 Environmental Health Specialists will work fulltime for the Environmental Health Division in Fiscal Year 2019-2020. Approximately 2.1 full time employees (FTEs) are expected to work in the Solid Waste LEA program, which are not included in the calculations for this fee schedule.⁹² The remaining 36.9 fulltime equivalent specialists will provide inspection and plan review services to the relevant Environmental Health programs and are included in the hourly rate calculation in Exhibit B attached hereto. This level of staffing represents an increase in staff from the previous fiscal year in anticipation of the additional staff needed to fulfill new regulatory activities. An Environmental Health Specialist is projected to work an average of 1,763 hours in Fiscal Year 2019-2020.⁹³ Based on this average, a collective 65,054 hours is projected to be worked by all 36.9 specialists in Fiscal Year 2019-2020. The total salary and benefit costs of the 36.9 specialists collectively is projected to be \$6,220,457.

The salaries and benefits in each program, and program element, are projected based on past time records. Field staff account for their time using commercially available software developed for managing administrative, financial, and technical information in environmental health programs. For each day of paid time, field inspectors enter data based on an assigned service codes to account for the type of work conducted for each facility/permit or for a general category not tied to a facility/permit.

Of the 65,054 workable hours, approximately 56,383 hours collectively (1,528 hours per specialist) are projected to be spent performing inspections, plan reviews and other services. These hours will be referred to as "Productive Time." The remaining hours (an average of 235 annual hours per specialist, or 8,671 hours collectively each year), are projected to be spent on activities such as trainings, emergency drills, staff meetings, office functions and other activities not directly tied to inspections, plan reviews and other fee-based services. These hours will be referred to as "Other Time."

⁹² There are currently 3 FTEs in the Solid Waste LEA program. 73% of this staff time is LEA, not permit related work. Therefore, 2.1 FTEs were removed from Salary and Benefit costs.

⁹³ This was determined by starting with the total number of working hours in a year (2,080 hours, based on 52 weeks per year and 40 hours per week) and then subtracting the projected average hours taken for paid time off (e.g., , vacation, sick time, County holidays, etc.) and the total hours of the two daily 15-minute breaks specialists are allowed to take, to yield 1,763 annual workable hours per specialist. These projected averages were based on actual time off taken by specialists in Fiscal Year 2018-2019.

b) Administrative/Clerical

In Fiscal Year 2019-2020, the administrative/clerical staff of the Environmental Health Division is expected to include the Chief Environmental Health and Hazardous Materials Officer (Chief Officer”),⁹⁴ the Environmental Health Director, an Assistant Environmental Health Director, six supervising Environmental Health specialists, and eleven clerical personnel, including one clerical supervisor. Technical staff, temporary and student interns are also employed to support administrative and clerical functions of the division. The Chief Officer, Environmental Health Director and Assistant Environmental Health Director are responsible for overall operation and management of the division. The Supervising Environmental Health specialists are responsible for the programs to which they are assigned, and the program elements within each program, and the clerical supervisor manages the remaining clerical staff. The work these administrators and supervisors perform is necessary to the overall functioning of the Environmental Health Division and the fee-funded programs. Their projected salaries and benefits for Supervisor/Clerical staff in Fiscal Year 2019-2020 collectively totals \$3,076,395. This cost is reasonable for the administrative and clerical services that they provide.

The administrative and clerical staff time of the Environmental Health Division is not tracked to specific programs. Administrative and clerical staff salaries and benefits are instead allocated to each program based on the percentage derived by dividing the total regular working hour specialist salaries and benefits attributable to each program by the total regular working hour salaries and benefits of all specialists.

ii. SERVICES AND SUPPLIES

It is projected that \$1,775,478 will be needed to fund the services and supplies required to operate the Environmental Health Division in Fiscal Year 2019-2020. The supplies and services required to operate the Environmental Health Division apply to all of the programs. These costs include, but are not limited to: Communication fees and equipment expenses (\$60,000) which are essential so that staff can communicate with other staff in the field, receive emergency notifications, and to ensure staff are accessible to the public; minor office equipment (\$75,000) such as, computer hardware, ergonomic workspace equipment, and furniture and field equipment used for inspection purposes; building occupancy cost (\$414,582), which covers rent for the Environmental Health building headquarters; maintenance services (\$37,000) necessary for field equipment, EH vehicles, and building/office maintenance and repairs; other travel expenses (\$112,500), which mainly consist of auto mileage reimbursements for inspection staff and training and travel expenses such as airfare, lodging, and registration fees; and software service charges (\$125,000). The projected service and supply costs are essential to Environmental Health Division operations and therefore reasonable expenses to be funded by the Environmental Health Division fees. Further, the services and supplies costs for the Solid Waste LEA program (\$126,898) and Waste Tire program (\$15,803) were not included in the calculations for this fee schedule.

Service and supply expenses are allocated to the different programs based on the percentage derived by dividing the salary and benefit costs attributable to each program by the total salary and benefit costs of the division. The amounts allocated to each program are shown in Table 1 on Exhibit A.

⁹⁴ The time of the Chief Environmental Health and Hazardous Materials Officer is split between the Environmental Health Division and the Hazardous Materials Programs Division. Approximately \$11,000 is allocated to Environmental Health.

iii. INDIRECT ADMINISTRATION

Indirect administration expenses are Health Services Department overhead costs that are allocated to each of its divisions. The projected allocation to Environmental Health in Fiscal Year 2019-2020 is \$619,962, and includes Health Services departmental administration overhead charges (\$337,886), retiree health insurance costs (\$192,993), and other post-employment benefits (OPEB) (\$89,083). Health Services Department overhead includes charges for the Office of the Director to oversee the various divisions within the department, the Contracts and Grants Division to assist in preparing contracts and grants, the Information Systems Division that assists with computer equipment and software, Payroll and Personnel Division, and the Finance Division. The Environmental Health Division allocation was based on the percentage derived by dividing the total division budgeted expenses by the department expense budget. These services are essential parts of the day-to-day operations of the department and its various divisions. The total of \$619,962 in indirect administration costs was allocated to each program by the same percentages used to allocate service and supply costs. Indirect costs for Solid Waste LEA (\$49,783) and Waste Tire (\$6,200) were removed from this total, for a new total of \$563,979. These Indirect Administration costs are shown in Table 1 on Exhibit A. The indirect costs were included in hourly rate calculations in the Supervisor/Clerical Salary and Benefits line item of Exhibit B.

iv. COUNTY OVERHEAD

County overhead costs include those incurred by the County Administrator's Office in overseeing the Health Services Department. Included are costs incurred in the preparation of department or division agenda items for the Board of Supervisors, development of policies concerning the department or its divisions, labor negotiations, contract negotiations with represented personnel, handling grievances, staffing Board committees to which Environmental Health reports and assisting with Environmental Health's reports to these committees. County overhead also includes costs incurred by other County departments that perform services for the Health Services Department or its divisions. They include Human Resources Department costs associated with hiring personnel, conducting classification and compensation studies and developing policies. Also included are the costs of services provided by the Auditor-Controller, Public Works Department, General Services, County Counsel and the Department of Information Technology. As with indirect administration costs, county overhead costs are essential to the day-to-day administration of the Environmental Health Division.

The allocations of these overhead costs are determined according to an accounting process approved by the federal Office of Management and Budget and guidelines on determining best estimates. Amounts are allocated to each division in proportion to the cost of services received by the department from other County departments. The manner in which these proportional amounts are tallied varies depending on the type of services provided. Services provided by the Auditor-Controller, for example, are allocated based on the number of checks issued to the receiving department and number of employees in the receiving department. Building maintenance, on the other hand, is allocated based on the square footages of the buildings maintained and number of employees in the receiving department. For Fiscal Year 2019-2020, it is projected that a total of \$166,000 will be allocated to the Environmental Health Division. This total was then allocated to the Environmental Health programs by the same percentages used to allocate indirect administration costs. The amounts allocated to each program are shown in Table 1 on Exhibit A. Solid Waste LEA and Waste Tire costs, totaling \$14,990 was removed from the County Overhead costs, so that \$151,010 was included in the hourly rate calculations, as seen in Exhibit B. As with indirect administration costs, county overhead costs are essential to the day-to-day administration of the Environmental Health Division and for that reason are reasonable and necessary.

v. EXPENSE SUMMARY

The total projected expenses of the EH Division in Fiscal Year 2019-2020, tied to permit fee specific services is \$11,223,341. Table 1 on Exhibit A shows the total projected expenses (\$12,590,239) for the Environmental Health Division as a whole, as well as, a breakdown of each Environmental Health program category. As discussed, Solid Waste LEA costs and Waste Tire costs totaling (\$1,136,898) are not included in this expense total. Additionally, the totals for Fines and Penalties (\$182,000) and Application Fees (\$48,000) detailed in Table 2 of Exhibit A were removed from total expenses, because the expenses related to this revenue are not tied to inspections. Therefore, they should not be included in hourly rate calculations. This is how the \$11,223,341 total utilized in the hourly rate calculations was arrived at from the full expense total of \$12,590,239.

D. PROJECTIONS OF REQUIRED REVENUES

After expenses have been projected, the next step is to project revenue needs. Revenue projections start with an analysis of the revenues collected in the previous year, the number of active facilities within each program element, and an assessment of the funds needed to cover the anticipated cost of the program.

EH collects fines and late penalties, and is awarded grants intermittently. The totals of these revenues received in Fiscal Year 2018-2019 were used as a basis for projection of these revenues in Fiscal Year 2019-2020. The projected fines and late penalties total \$182,000. Another \$153,000 in grant revenue is projected, \$126,000 of which is earmarked to fund all the expenses of the Waste Tire program element, which is staffed by technicians. An additional \$1 million in solid waste tonnage fee revenue is also projected. Finally, approximately \$48,000 will be collected through application fees to cover clerical costs. These revenues are shown in Table 2 on Exhibit A. These revenues fund other Environmental Health programs and do not fund permit fee specific services, so expenditures tied to these revenue sources are not included in the hourly rate calculations.

Program fees are set so that revenues collected to fund EH operations balance with expenditures needed to carry out regulatory activities each fiscal year. However, sometimes more revenue is collected than is needed to cover operating costs in any given fiscal year. When that happens, the excess revenue is carried forward to the following year, and fees would be adjusted accordingly. Conversely, if expenses exceed the revenues collected, leaving a shortfall in funding, revenues to be collected in following years are borrowed to cover the shortfall, and the shortfall becomes an expense to be funded in the following year and fees would be adjusted accordingly. Although many variables, including estimates for new programs and related staff increases and the number of inspections and annual plan reviews could impact actual Fiscal Year 2019-20 expenditures and revenues, no carryovers or shortfalls are projected going into Fiscal Year 2019-2020.

E. FEE APPORTIONMENT

The vast majority of fees in all of the Environmental Health programs are calculated based on the amount of time projected to be spent by a specialist performing an activity or service for which the fee is charged. These times have been determined based on timekeeping data and estimates developed by staff. Average hours projected to be spent on inspections and other activities for which EH fees are charged are shown on

Exhibit B attached hereto. In setting fees in this manner, the fees are tied directly to the burden that each payor has on the particular program.⁹⁵

The actual cost associated with one hour of a specialist's time spent on an inspection or plan review or other service includes more than just the salaries and benefits of the inspector for that one hour. It includes a proportional cost of time spent on activities for which no fees are collected (Other Time), and proportional shares of other reasonable costs of the division; i.e., the cost of administrative and clerical work, services and supplies, indirect administration and county overhead. In order to recoup all of these costs, fees are based on what is referred to as a "fully burdened hourly rate" associated with one hour of Productive Time. The amount of time that it takes a specialist to conduct an inspection or plan review or other service is multiplied by the fully burdened hourly rate in order to set the applicable fee.

There are two steps involved in calculating the fully burdened hourly rate of a specialist. First, an average salary and benefit rate of one specialist (\$110.32) was calculated based on the Productive Time of the 36.9 specialists (56,383 hours) and projected \$6,220,457 in salaries and benefits.

The second step requires calculating an hourly rate associated with the projected overhead costs of the Division in all programs in which specialists are employed to perform inspections, plan reviews or other services. Those costs (which exclude all the costs of the Solid Waste-LEA, Waste Tire programs, and costs related to Fines and Penalties and Application Fee revenues), total \$5,002,884. Those costs are then divided by the Productive Hours of 56,383, yielding an hourly rate of \$88.73.

The two hourly rates of \$110.32 and \$88.73 were then added to yield a fully burdened rate of approximately \$199 per hour. For a breakdown of these calculations, see Exhibit B.

Program fees are set so that revenues collected to fund EH operations balance with expenditures needed to carry out regulatory activities each fiscal year. If more revenues are collected than are needed to cover the total operating costs in any given fiscal year, such excess revenue will be carried forward to the following year, and fees would be adjusted accordingly. Conversely, if expenses exceed the revenues collected, leaving a shortfall in funding, revenues to be collected in following years are borrowed to cover the shortfall, and the shortfall becomes an expense to be funded in the following year and fees would be adjusted accordingly.

Fees are primarily set at the PE level, which is based on the type of unit of work or facility type. EH work can be broadly described as falling into two types: unit work for which there is a beginning and an end and work that is conducted annually, usually year after year. All plan review work and most land use work is described as unit work for which there is a beginning and an end. Most food facility, pool, body art, medical waste, permit work is conducted in yearly increments. PEs are further broken down in certain program areas based on the type of facility. For instance, inspection and plan check for retail food facilities have a program element for many different types of fixed food facilities, e.g., small restaurant, large grocery store, bakery. Similarly, land use has different PEs based on the type of work being proposed, e.g., drilling of soil boring, well destruction, soil profile evaluation for a proposed on-site wastewater treatment system (OWTS). There are PEs for staff time used in general program development, training, division and team meetings, and time off for each program area.

Within each PE, the field staff further assigns their time using service codes (SCs). For instance, for the annual permitting programs, when conducting a routine inspection of a food facility, pool or beach, body

⁹⁵ *Cal. Assn. of Prof. Scientists v. Dept. of Fish and Game* (2000) 79 Cal.App.4th 935, 945; *Pennell v. City of San Jose* (1986) 42 Cal.3d 365, 375; *United Business Com. v. City of San Diego* (1979) 91 Cal.App.3d 156, 166.

art, medical waste generator, solid waste facility, the SC “002” is used and the time is linked to a particular facility/permit. For the unit work done in plan review and land use entails, the following typical activities: review of the application and proposed work, comments to applicant if changes or additional information is needed, inspection at proscribed times in the project, and final approval, and each the time for each activity has its own SC that the staff assign their time.

Some of the SCs are used when an inspector is not working on a particular project unit or facility. Inspectors attribute time to certain division-wide activities such as emergency operations, training- public, official meeting, training in-service, and staff meeting. In addition, each work day, the inspectors are expected to spend the first two hours of the day (typically, 7AM to 9AM) in the office to be available for office visits, returning phone calls, and to conduct paperwork including recording the previous day’s activities in the software system. This activity is captured as office activity. Field staff time attributed to a program area general PE (e.g., General Land Use, Well General) is distributed amongst the PEs within that EH program area based on the total time that particular PE requires compared to the other PEs for that EH team. Field staff time attributed to General Environmental Health is distributed across all program area groupings based on size of that program grouping compared to all programs.

The data used to develop the fee for a particular PE is based on the time recorded for certain SCs that are linked to a particular facility or project unit. In the subsequent sections, we will describe how the SCs are grouped by a particular program area and provide the base time for each PE in each program area relevant to those programs for which fees are being adjusted with this resolution.

Under current County ordinance, exemptions from paying environmental health permit fees exist for someone who is legally blind⁹⁶ or is a veteran that was honorably discharged⁹⁷ or to a religious or charitable organization.⁹⁸ A more narrow exemption for honorable discharged veteran is described in the state law for those individuals desiring to peddle, sell, and vend.⁹⁹ Revenues collected from penalties cover service cost and fee gaps from these exemptions.

A time analysis study of EH field inspector activity, showed that in many cases, no changes in the fees needed to be made based on the amount of time Environmental Health spent conducting that service. Environmental Health is proposing amendments to the fee schedule for body art program based on the new time analysis. The time analysis study revealed increased efficiency inspecting the licensed health care facilities; therefore, no increased fees are proposed for this program.

Environmental Health has created new categories for certain facilities. For instance, production kitchens and event centers had been combined with commissaries. However, because Environmental Health wants budding food entrepreneurs to be aware of the production kitchen facilities available in the county, we create a separate category for them as it is easier to track them. Similarly, now the commissaries are only comprised of facilities that support a mobile food facility. And the event centers are in a separate category. Separate fees for these two categories are included in this fee revision.

EH has separated the seasonal public pools from the year-round public pools. EH conducts a routine inspection of all seasonal public pools one time, whereas the goal for the year-round public pools is twice a year. The fee for the year-round public pools is proposed to be adjusted based on the increased workload.

State law has created new food facility types, namely a catering operation and a host facility (AB 2524), so

⁹⁶ [CCC Ord. Code, § 413-3.1002.](#)

⁹⁷ [CCC Ord. Code, § 413-3.1006.](#)

⁹⁸ [CCC Ord. Code, § 413-3.1004.](#)

⁹⁹ [Bus. & Prof. Code, § 16102.](#)

we are adding those to the fee resolution. State law also created several charitable food categories; however, these are fee exempt per county ordinance.

The following sections describe the time analysis approach for the development of fees for the annual permit fee, plan review of new or remodeled food facilities and public pools, land use programs, solid waste, safe drug disposal and cannabis.

i. ANNUAL OPERATING PERMITS-FOOD, RECREATIONAL HEALTH, HOUSING, BODY ART, MEDICAL WASTE, SMALL WATER SYSTEMS

The inspectors that conduct the food, recreational health, housing, body art, and organized camp programs are housed within four EH teams. The facility specific activity time involved with these program types serve as the base of the fees for each of these programs, and because they differ slightly, they are explained separately in the following sections. There is also time associated with facility-specific and general program development activities that differ within each of these programs, and is thus distributed within a specific program and not distributed across all the programs. General Environmental Health Time was distributed using a time weighted approach across the programs.

a) FOOD PROGRAMS

EH has established fees for certain food facility-specific activities: annual permit, change of ownership and site evaluations. In this section, the basis for the permitting of fixed facilities, mobile food facilities and other types of retail food facilities will be discussed. EH is proposing no change for the change of ownership and site evaluation fees at this time.

1) FIXED FOOD FACILITY AND LICENSED HEALTH CARE FACILITY

EH has implemented the U.S. Food and Drug Administration’s Voluntary National Retail Food Regulatory Programs Standards. There are nine standards that are aimed at improving retail food safety by focusing on the reduction of risk factors known to contribute to foodborne illness and to promotion of active managerial control of these risk factors. One of the standards delineates the fixed food facility inspection frequency based on the types of food preparation that occurs at the facility.¹⁰⁰ For those facilities with only prepackaged food (Risk category 1), inspection frequency is one per year. For those facilities where the food is heated/cooked (Risk category 2), inspections frequency is two time per year. For those facilities where the food is cooked, cooled, and then reheated, and/or food served raw, such as sushi restaurants (Risk category 3), the inspection frequency is three times per year. These inspection frequencies are different from the past when the goal of EH was to inspect each fixed food facility twice annually. Inspection time includes preparation time reviewing the previous inspection reports and other information in the facility file, travel time to that facility (typically averaged over all the facilities being inspected that day by the inspector), on-site inspection time, and any report writing that occurs after the inspection. Sometimes the inspector must conduct a re-inspection because the routine inspection found one or more violations that requires the operator to fix, which cannot be accomplished while the inspection is taking place. In April 2016, EH implemented the placarding program for fixed facilities. In April 2019, EH implemented the placarding program for limited and full prep mobile food facilities. If a facility gets a yellow placard, a re-placarding inspection is conducted within 10 business days.

This size of the type of operation that occurs at a facility often dictates the length of time it takes to conduct some of the inspection activities, and thus the current fee schedule has a number of different categories. The fee categories include commercial establishments that make and sell food, school food

¹⁰⁰ [U.S. Food and Drug Administration's Voluntary National Retail Food Regulatory Programs Standards](#)

programs, retail bakeries, retail food facilities, commissaries, production kitchens, and licensed health care facilities. In the fee schedule, several of the PE categories have been broken up to better represent the differences in time it takes to oversee these facilities. An example is separating, production kitchens from commissaries, as production kitchens are defined as having food preparation activities, whereas Commissaries are essentially wholesale support for mobile food facilities. Facility specific data were used to develop the basis for the routine inspections where it was possible to do so.

The time consumed conducting one routine inspection and one re-inspection/re-placard inspection is the base hours for a food facility fee category risk level one. The time consumed conducting two routine inspections and one re-inspection/ re-placard inspection is the base hours for a food facility fee category risk level two. The time consumed conducting three routine inspections and one re-inspection/ re-placard inspection is the base hours for a food facility fee category risk level one.

Inspector time for facility-specific non-chargeable activities (e.g. non-validated complaint, consultation/no charge, operating without a permit, out of business) were added with the inspector time spent on non-facility specific activities such as program coordination and development and then distributed across each of those food facility fee categories based on the inspection time workload (total minutes) of that fee category compared to the total inspection time workload for all these food facility fee categories. Then this distributed time for each PE category was divided by the number of routine inspections conducted in that PE to arrive at the distributed time per facility within that PE.

Similarly, inspector time for facility-specific non-chargeable activities for the series licensed health care facilities was added with the inspector time spent on non-facility specific activities such as program coordination and development and distributed across each licensed health care facility fee category based on the inspection time workload (total minutes) of that PE category compared to the total inspection time workload for all the licensed health care facility fee categories. Then this distributed time for each PE category was divided by the number of routine inspections conducted in that PE to arrive at the distributed time per facility within that PE.

2) MOBILE FOOD FACILITIES

EH permits a number of mobile food facilities: trucks that range from the traditional pre-packaged food with coffee truck to gourmet food trucks where food preparation occurs on the trucks, pushcarts that typically sell ice cream or prepackaged food and, in some instances, serve hot food. EH issues permits that take into account that some of the mobile food facilities operate seasonally, e.g. ice cream pushcarts, others may work farmers markets during fair weather, and still others are year round, by offering certain permits on a quarterly basis.

All mobile food facilities must be associated with a commercial kitchen or commissary and return there at the end of every workday.

In recognition of the changing world of mobile food, in this fee proposal certain mobile food facilities and commercial kitchens/commissary PEs have been renamed, others have been split into two or more PEs. For example, "Mobile Food Prep Unit" was renamed "Mobile Food Facility (Full Prep Vehicles)". As another example, previously we did not have a separate PE for a permitted restaurant that also serves as a commissary for a mobile food facility, so we created the "Mobile Food Facility (MFF) Commissary & Restaurant". This separate PE is needed as additional items are inspected due to the facility serving a commissary, and an additional inspection report has to be filled out.

The fees were developed for each of these new fee categories by reassigning current food facilities into the appropriate, new PE and then analyzing the inspector time as previously described for already existing food facility PEs.

Similar to fixed food facilities, EH has had a goal of inspecting each mobile food facility twice per permitted year. The first inspection is not a surprise inspection. The permit year for mobile food facilities is the same as the calendar year. In the fall when operators want to obtain a new permit, a scheduled inspection of the mobile food facility takes place at a designated County facility.

The number of inspections of the mobile food facilities and their associated restaurant/commissary is based on the risk-based approach previously described for the fixed facilities. One re-inspection/re-placard is also included in the development of the fees. The distribution of mobile food facility non-inspection time and general program development time was previously described in the fixed facility section.

3) OTHER RETAIL FOOD PROGRAM FEES

EH fees for vending machines, and temporary events are developed separately from the fixed facilities. For each of these programs, EH tracks program development and implementation and non-chargeable time separately from fixed facility and mobile food facility time.

I. VENDING MACHINES

Under state law, EH regulates vending machines. EH does not permit most vending machines, only those that contain prepackaged, non-potentially hazardous food. Under the permitting system, EH inspects these vending machines once a year.

The basis of the vending machine fee is the time needed to conduct the yearly inspection. Non-inspection time attributed to the vending machine PE is distributed across the number of vending machine permits.

II. TEMPORARY FOOD FACILITIES

EH, under state law, regulates temporary food facilities at events open to the public. These food facilities may operate solely or be part of a larger collection of temporary food facilities such as at a festival or civic celebration or a farmer's market. Typically, the permit is issued for the duration of some community event, one night, over the weekend, etc. In the case of temporary food facilities adjacent to a farmers market, the permit is issued for three months. Thus, over the period of a year, a temporary food facility adjacent to a farmer's market obtains four permits, one for each quarter.

The basis of the temporary food permit is the time needed to conduct one inspection of the temporary food facility(ies). In reviewing the time needed to conduct the inspections, as travel time is included, there was a decrease in the time needed per booth as the number of booths per event increased. Thus, as with the way fees for pushcarts, agricultural vendors at Farmers Markets, and non-agricultural vendors at Farmers Markets have been established in the past, we are proposing that the fees for temporary food booths that are for-profit, be established based on the number of booths per event.

In addition, time spent on non-inspection, facility-specific activities and program administration and development of the temporary food facility is distributed across the temporary food permit.

III. COTTAGE FOOD OPERATIONS

EH initiated its cottage food operation (CFO) program on January 1, 2013, when the state law became effective. The limited time accounting data was used to develop proposed fees. The base time for reviewing and approving the Class A registration (PE 1665) is based on the time needed to review the

initial submission of the proposed food operation including labels that meet FDA standards for each product to be produced (SC 009). The base time for reviewing and approving the Class B permit fee (PE 1665) is based on the sum of time needed to review submission of the proposed food operation including labels that meet FDA standards for each product to be produced (SC 009), the time needed to conduct one yearly inspection (SC 002), and the report writing after the inspection (SC 009). The fees first proposed for the initial review of a new Class A or Class B CFO were too low based on the 2.3 hourly time analysis, and thus the fees being proposed are higher to reflect the amount of time (2.5 hours) needed to adequately review a new proposal. Each of the new fees is based on the average number of hours and, when more time is needed, usually because a package is incomplete and even resubmittals are not adequate, then the additional will be charged at the hourly rate.

For those CFOs that are reapplying for a registration or permit and are proposing no or minimal changes in their products, EH is retaining the fees first proposed for the registration and permit, as these are appropriate given the lesser amount of time needed to review and approve the resubmittal.

b) RECREATIONAL HEALTH

1) POOLS AND SPAS

EH's goal is to inspect each year-round public pool/spa twice a year and conduct one inspection for each seasonal pool/spa. The time to conduct the routine inspections and the report writing associated with that inspection is the base of the permit fee.

Facility-specific non-inspection time and program administration and development of the pool/spa program is distributed across the pool and spa facilities.

Unique pool/spa facilities are the large recreational parks which contain multiple swim areas, and these are designated their own PE, due to the considerably larger amount of time needed to conduct the inspections. Time spent conducting the routine inspections of that recreational park are the base of the permit fee. This PE is also included in the distributed costs described in the previous paragraph.

2) BEACHES

EH enforces state law that requires inspection of "public beaches" as specifically defined in state law. EH inspects two beaches, both operated by the East Bay Regional Parks District.

EH's goal is to inspect each public beach twice a year. The time to conduct two routine inspections and the report writing associated with that inspection is the base of the permit fee. Facility-specific non-inspection time and program administration and development of the mobile food facility is distributed across the pool and spa facilities.

c) HOUSING

1) JAILS

EH conducts housing and food safety inspections at jails and detention facilities in the County per state law. State law requires inspection once a year. Specific inspection forms are provided by the state, and are the basis of the inspection.

The time to conduct one routine inspection and the report review and writing associated with that inspection is the base of the permit fee.

2) ORGANIZED CAMPS

There is one organized camp in Contra Costa County. An annual operating fee based on a three hour time analysis, which includes the time needed to review the annual written notice of intent to operate, a written verification of American Camp Association accreditation or written description of operating procedures for organized and supervised activities of the camp (including an emergency plan), and one inspection is reasonable.

d) BODY ART

EH initiated its body art program on July 1, 2012, when the state law became effective. Based on knowledge from implementing the program for the last six plus years, the existing fees are being updated based on the new time analysis study, and new fee categories are being proposed. The base time for the body artist registration fee is derived from the time needed to review the application including Hepatitis A vaccination documentation or declaration and proof of completion of the Safe Body Arts training. The base time for the body arts facility application review fee is based on the sum of time needed to review application and the facility's operating procedures. The annual operating fee is based on the time needed to conduct one yearly inspection and the report writing after the inspection. The body arts facility's permit to review fee operate (formerly called plan review fee) is based on the sum of time needed to review application, the standard operating procedure document, and the facility's blueprints, the time needed to conduct one inspection after construction is complete, and the finalizing of the permit after the inspection. This fee applies to fixed as well as mobile facilities.

EH is proposing to permit the body art temporary events similar to the food temporary events. The organizer of the event is responsible for submitting the application for the event (called Body Art Temporary Event Organizer Permit) that includes the applications for each of the booths. The Body Art Temporary Event Organizer Permit fee is based on the sum of time needed to review application and the facility's operating procedures, the time needed to talk with the organizer at the event, and the report writing after the inspection. Each booth at the event that participates in the event has a separate demonstration booth fee based on the time to inspect (20 minutes). Each artist at the event either has an annual registration (described above) or can apply to get a temporary registration (good for 15 days). The fee for the temporary registration is based on the time to review the application and the accompanying documentation.

EH is also proposing an annual fee for a body art facility that is also a school for body artist. This fee is based on the time needed to conduct two yearly inspections and the report writing after the inspections. The students would obtain either a body artist temporary registration or an annual registration depending upon their future work location.

A new fee for plan review of a remodel of an established body art permitted facility is based on the time to review the plan and conduct one inspection after the remodel is completed.

Facility-specific non-inspection time and program administration and development of the body art program are distributed proportionally across the body art categories.

e) MEDICAL WASTE

The inspectors that conduct the medical related programs are housed within the solid waste team. EH regulates several different facilities where medical waste is either generated. EH conducts inspections at medical waste generators in the County. State law prescribes that the frequency for large quantity generators (>200 lbs per year) be inspected annually. State law proscribes that the frequency for small generators (<200 lbs per year) with treatment on-site be inspected bi-annually. EH strives to inspect the

small quantity generators (<200 lbs per month, no treatment on-site) once every three years. The time to conduct one routine inspection and the report review and writing associated with that inspection is the base of the permit fee. For small quantity generators with treatment onsite for which EH is only required to inspect bi-annually, the time it takes to conduct one inspection is divided by two and is the base time for development of the fee. For small quantity generators without treatment on-site which EH strives to inspect once every three years, the time it takes to conduct one inspection is divided by three and is the base time for development of the fee.

Other facility-specific time and time needed for program administration and development of the medical waste program is distributed across the medical waste PEs proportional to the amount of time the inspection and report review/writing take-up of the total time needed for the inspections/report review/writing.

f) PUBLIC WATER SYSTEMS

Though a consumer protection program, the public water system element is housed within the Land Use Program. That inspector also conducts land use activities, oversight of construction and destruction of wells and septic systems.

The EH public water system inspector conducts several activities on a yearly basis as part of the annual permit for each of the small water systems, this includes reviewing the permit, recording a chemical sample, recording a bacteriological sample, providing technical assistance/consultation, reviewing the water system, report writing/review, and conducting an annual inspection and sometimes a re-inspection/follow-up. Depending upon the type of system, the state mandates the conduct of a sanitary survey of a small water system either annually, on a 3-year interval or a 5-year interval. Because the time needed to conduct these surveys is extensive, the basis of the fee is derived from looking at the time needed on an annual basis, over a three- or five-year period and then determining the average time needed annually to carryout the permit oversight responsibilities.

The public water system inspector conducts a number of activities to run the program including meetings with the state health department, reviewing the voluminous chemical and bacteriological data that is submitted, completing the paperwork, responding to emails and telephone calls, reviewing the files and responding to inquiries from other agencies and the public. This time was distributed proportionally across the small water systems.

Periodically, EH receives a request from a public water system operator to perform activities not typically covered within the annual permit. There are requests for small water systems to change their owner. There are also requests to change parts of the water system, i.e. modify or add new equipment. For these activities, EH has separate fees that apply only to that activity and were developed using inspector time data from recently requested activities.

ii. PLAN REVIEW-FIXED FOOD FACILITIES AND PUBLIC POOLS

The inspectors that conduct plan review, do so for both food facility and public pool construction and remodeling. The fee for each activity is based on the time needed to complete the project.

EH enforces state law that requires plan review approval for new construction and remodeling of a food facility, and inspection and approval that food facility is built to those approved plans. The fee is based on the time needed to conduct the following steps initial plan review, write plan review denial letter, plan check follow-up, write plan approved letter, conduct pre-final and final inspections, and grant permit to operate.

EH enforces state law that requires plan review approval for new construction and remodeling of a public pool (including spa and other water play structures), and inspection and approval that the public pool is built to those approved plans. The fee is based on the time needed to conduct the following steps: initial plan review, write plan review denial letter, plan check follow-up, write plan approved letter, conduct a pre-gunite inspection, conduct a pre-plaster inspection, conduct final inspection and grant permit to operate.

Changes of equipment related to food preparation (ovens, refrigerators and freezers, deep fat fryers, etc.) do not need to be submitted for review if it is like for like. However, if the equipment change is not like for like or for a change of one finish material, then an application for plan review needs to be submitted, reviewed, and approved. An inspection is not typically warranted, and thus the fee is based on just the review time in the office. Similarly, fees for a second and third piece of equipment change-out and/or finish material that all occur at the same time are based on office review and approval of the changes only. If an on-site inspection is needed, that is charged at the hourly rate. For changes to four or more pieces of equipment or a remodel that is not as extensive as a major remodel, i.e. a minor remodel, the fee is based on the plan review and inspection time. A minor remodel consists of work that requires permanent plumbing, drainage, or direct electrical connections, or installation in, or the modification of, existing structure to accommodate the new equipment, or the extensive replacement of finishes such as wall, floor or ceiling materials or lighting fixtures. Anything more extensive than a minor remodel of a food facility is considered a major remodel which takes the same amount of time for review and inspection time as does a new construction.

Fees for changes to public pools such as re-plastering including the replacement of tile and coping, handrail, ladder, and step replacements and replacement of the fence or deck are based on plan review and a final inspection.

iii. LAND USE

The inspectors that work in the Land Use team conduct both on-site wastewater treatment system and well program work. Most of the work conducted by the Land Use team is project unit-based work. The exception to this is the annual permitting of wastewater haulers. The activity time spent on each of these programs (on-site wastewater treatment system, well, and wastewater hauler) that serves as the base of the fees for each of these programs differs slightly and are explained separately in the following sections. There is also time associated with facility-specific and general program development activities that differ within each of these programs, and is thus distributed within a specific program and not distributed across all the programs. General Land Use and General Environmental Health Time are distributed using a time weighted approach across the programs.

a) ON-SITE WASTEWATER TREATMENT SYSTEMS

EH oversees the construction of on-site wastewater treatment systems per state law and County Ordinance Code to ensure proper disposal of wastewater does not negatively affect public health.

New construction of an on-site wastewater system involves several steps, each of which an applicant applies to EH individually: site evaluation, soil profile, percolation test, plan review, and the construction application permit. This step-wise approach was set-up to ensure EH is able to collect fees for the time spent on each conducted activity, which is necessary since all projects may not be fully completed for various reasons or the applicant may need a longer period of time to complete the process of design and then construction, and thus the fees are timely based on the activity pattern.

Plan review fees are based on office review time. Development of fees for site evaluation, soil profile, and percolation test are based primarily on the time it takes in the field for those activities. The construction or replacement permit fee for a conventional system is based on several field inspections, generally at the following points: a stakeout of the system to ensure proper set-backs, open trench with gravel in a pile, and final. Plan review fees are based on office review time. Alternative systems take more time because of the complexity of the systems in both plan review and additional construction inspections.

Septic tank abandonment and replacement fees are based on the time it has taken to conduct the permit review in the office and one field inspection.

b) WELLS

EH oversees all drilling into the subsurface for the purpose of keeping contaminants out of groundwater. Shallower drilling may not encounter groundwater; however, that cannot always be predicted as groundwater levels vary over time and the true depth of a drilling operation does not always follow the submitted plan. When drilling into or through groundwater, EH oversees the construction of the well and well destructions to ensure each water zone is appropriately sealed off from other water bearing zones and surface contamination. When a hole is drilled and it does not encounter water, it is important it is destroyed correctly, so as not to provide a preferential pathway of surface contamination to the subsurface.

The development of fees for wells using casing including monitoring, cathodic protection, dewatering, inclinometer, and piezometers with casing wells are based on the time it takes to review the permit application, observe the construction in the field and finalizing the permit when the well driller report is received. Geothermal heat exchange, domestic supply, and agricultural/irrigation wells are special types of wells with casing, the construction of which takes more time to review and there are more field inspections needed, so the fee is based on a greater amount of inspector time. The development of fees for wells/holes that do not include the use of casing including soil borings, soil vapor probes, CPT probes, and piezometers without casing are based on the time it takes to review the permit application (SC 363), observe the destruction in the field, and finalizing the permit when the well driller report is received.

The variance request fee is based on office review time. Development of the fees for well flow test is based on the time it takes in the field for those activities.

The development of the fee for the annual drilling permit is 8 hours of inspector time (3 2-hour visits and two hours of office time). The basis of the fee for a soil boring permit in an area where no groundwater/contamination is anticipated to be encountered is 45 minutes of inspector review time of the application, and 15 minutes of review time associated with the application.

c) WASTEWATER HAULERS

Under state law and County Ordinance Code, EH oversees sewage pumper trucks. The development of the fees for the pumper truck annual permit is the time it takes to review the permit applications and the field inspection of the truck.

iv. SOLID WASTE

The LEA may prescribe, revise, and collect fees or other charges from each operator of a solid waste facility or from any person who conducts solid waste handling if the local governing body having rate setting authority has approved rate adjustments to compensate the solid waste hauler or solid waste facility

operator for the amount of the fee or charges imposed pursuant to this section.¹⁰¹ This fee enables the LEA to recover costs incurred in enforcing the statewide minimum standards for solid waste handling and disposal established by the Department of Resources Recycling and Recovery (CalRecycle) at operations and facilities within its jurisdiction. Currently, a solid waste fee is collected based on tonnage.¹⁰² Fees may also be based on the volume or type of solid waste or on any other appropriate basis.

In addition, each application required to be filed with the LEA shall be accompanied by a filing fee according to a fee schedule established by the enforcement agency to reflect the cost of processing the application and to recover costs incurred in the review of the application as well as any supporting documentation required by state minimum standards.¹⁰³ These fees account for five to ten hours of service time and amount to an initial deposit. The proposal is not adjusting these LEA fees.

v. SAFE DRUG DISPOSAL

The Safe Drug Disposal Ordinance requires payment of fees at the time of submission of initial and amended stewardship plans, which are reviewed by EH.¹⁰⁴ Proposed fees for plan reviews have been included in the fee schedule that are based on time that EH staff spent reviewing a plan that was submitted prior to the adoption of fees.

vi. COMMERCIAL CANNABIS

A commercial cannabis health permit is required to conduct any commercial cannabis activity in, or to deliver cannabis to any location in, the unincorporated area of the county. A commercial cannabis health permit is an annual permit that expires on June 30th following the date of its issuance. To renew a permit, a permittee must submit an application for renewal 30 days before the permit expires. The commercial cannabis health permit program is a new program. Thus, Environmental Health has estimated the time and cost required to perform its regulatory activities based on past practices in similar programs.

An application fee is required when an initial or renewal application is submitted (413-4.406). This application fee covers the direct costs of processing and reviewing the application for completeness and compliance with County Ordinance Code requirements. The commercial cannabis health permit application fee is based on 3.0 hours of EH Specialist time. This estimate of time required is reasonable because it is similar to other program application review and processing times.

If the initial or renewal application is approved, payment of a permit fee is required before the health permit is issued (413-4.412). The permit fee covers the direct costs of conducting routine inspections and indirect costs associated with relevant staff training and administration of the County's cannabis permitting program. Additional inspections and verified complaint inspections are charged a separate fee.

Environmental Health proposed separate fee categories based on the various types of commercial cannabis activities. Some of the category types, specifically the manufacturing and retail, will require more inspections and each inspection taking more time, resulting in a higher fee. Environmental Health proposes a uniform fee within each category type. A time analysis after a few years of permitting may suggest a need for varying

¹⁰¹ [Pub. Resources Code, § 43213.](#)

¹⁰² Resolution No. 88/783.

¹⁰³ [Pub. Resources Code, § 44006\(c\).](#)

¹⁰⁴ Ord. Code, § 418-16.206, subd. (d); 418-16.212, subd. (a)(1) & (b).

health permit fees by sub-category; for instance, a larger dispensary may require more time to inspect than a smaller dispensary.

Commercial cannabis health permit fees for testing laboratories, distribution centers, and outdoor cultivation are based on two routine inspections each 3.75 hours, for a total of 7.5 hours. Inspection time includes, travel time, on-site inspection, drafting findings and reports, and any necessary follow-up related to the inspection. This estimate of time required is reasonable because it is similar to other program inspections.

Commercial cannabis health permit fees for the indoor cultivation fee are based on two routine inspections each 5 hours, for a total of 10 hours. This estimate of time required is reasonable because it is similar to other program inspections.

Commercial cannabis health permit fees for retail storefronts, retail delivery only operations, and manufacturing operations are based on quarterly inspections each 3.75 hours, for a total of 15 hours. The estimate of time required is reasonable because it is similar to other program inspection.

Inspections of manufacturing operations at a shared facility are assumed to be shared across multiple operators, or that the facility may have been the subject of previous inspections. Accordingly, Environmental Health proposes to initially set the fee for manufacturing operations at a shared facility at a lesser amount, prorated to assume six operators share a facility, or a fee based on a total of 2.5 hours. Environmental Health will monitor shared manufacturing facilities in the first several years of the program to determine if this assumption requires revision.

Commercial cannabis health permit fees for delivery operations that originate outside the unincorporated County that deliver to any location in the unincorporated County are based on the time to conduct an inspection of the delivery vehicle, estimated at two hours. This estimate of time required is reasonable because it is similar to other program inspections. If more than one delivery vehicle is used by the applicant, then additional inspection fees will apply.

CONCLUSION

Based on the above analysis, staff has determined that (1) the services to be provided by Environmental Health in Fiscal Year 2019-2020 are necessary, and the associated costs are reasonable to fund those services; (2) the projected expenses of Environmental Health in Fiscal Year 2019-2020 are a reasonable estimate of the costs Environmental Health will actually incur; (3) the fees for the fee-funded programs are set at a level sufficient to fund but not exceed the costs of the respective programs; and (4) the proposed fees have been reasonably apportioned based on the payors' burdens on those programs.

Staff therefore recommends adoption of Resolution No. 2019/521, adopting revised fees for Environmental Health, effective August 1, 2019.

Attachments:

Exhibit A: Expenses and Revenues

Exhibit B: Hour Survey