



**JONATHAN E. FIELDING, M.D., M.P.H.**  
Director and Health Officer

**JONATHAN E. FREEDMAN**  
Chief Deputy Director

313 North Figueroa Street, Room 806  
Los Angeles, California 90012  
TEL (213) 240-8117 • FAX (213) 975-1273

[www.publichealth.lacounty.gov](http://www.publichealth.lacounty.gov)



**BOARD OF SUPERVISORS**

**Gloria Molina**  
First District

**Mark Ridley-Thomas**  
Second District

**Zev Yaroslavsky**  
Third District

**Don Knabe**  
Fourth District

**Michael D. Antonovich**  
Fifth District

July 20, 2011

TO Each Supervisor

FROM: Jonathan E. Fielding, M.D., M.P.H. *JE Fielding ms*  
Director and Health Officer

SUBJECT: **RESPONSE TO COMMENTS RECEIVED ON PROPOSED  
ADJUSTMENTS OF PUBLIC HEALTH FEES**

On April 19, 2011, the Board of Supervisors instructed the Department of Public Health (DPH) to meet with parties impacted by the proposed changes in annual Environmental Health permit fees. Subsequently, at the Board Hearing on May 10, 2011, the Board instructed DPH to provide a summary of outreach activities conducted by DPH to affected parties. This is the response to that request.

Between April 26 and June 16, 2011, DPH held a total of 16 meetings with associations representing the impacted parties. Meeting participants included the California Restaurant Association, Los Angeles Area Chamber of Commerce, Central City Association of Los Angeles, Valley Industry and Commerce Association, California Apartment Association of Greater Los Angeles, California Apartment Association-Los Angeles Chapter, Southern California Mobile Food Vendors, La Asociacion de Loncheros, Food Industry Business Roundtable, Motion Picture and Television Mobile Catering Organization, members of the food vending machine industry, Certified Farmers' Market managers and vendors, and the Single Room Occupancy (SRO) Housing Corporation.

In addition, public meetings were held on May 3, May 4, May 31, June 13, June 14, and July 7, 2011. Prior notice of the meetings was provided via e-mail, web posting, and direct mail. Notices of the June and July meetings were sent to 130,000 existing and 3,000 proposed new fee payers. For those unable to attend the meetings, EH established an e-mail address and dedicated phone line to receive public comments.

Each Supervisor  
July 20, 2011  
Page 2

During the outreach process, EH received comments about the proposed changes at the industry and public meetings, as well as via e-mail. Based on this input, EH developed a Response to Comments, which is attached for your review.

If you have any questions or require additional information, please let me know.

JEF:sa  
PH:1107:002

c: Chief Executive Officer  
County Counsel  
Executive Officer, Board of Supervisors

**County of Los Angeles  
Department of Public Health / Environmental Health Division**

**Response to Comments Received on Proposed Adjustment of Public Health Fees**

**Comments from Retail Food Industry**

**Comment #1:** *Please provide an explanation of how you calculated the hourly labor rates included in the fee study.*

**Response:** Employee salaries were multiplied by a standard overhead rate to determine the hourly labor rates.

**Comment #2:** *We would like to know what kinds of bills are sent out by the tax assessor/collector (taxes, fees, etc.) and how often.*

**Response:** The Treasurer-Tax Collector (TTC) sends out the bills for Public Health Licenses and Permits. TTC also sends property tax bills, which include the Public Health License fee for inspections of multiple family dwellings with five units or more. Public Health License and Permits bills are sent annually at the beginning of the fiscal year. The property tax bills are sent out annually in September of each year.

**Comment #3:** *Please provide detail about how/when supplemental bills are sent.*

**Response:** Supplemental bills are not sent to existing permit holders. If a new operator is issued a permit after July 1, but prior to the passage of adjusted fees, the operator pays the current fee when the permit is issued, and receives a supplemental bill after the approval of the adjusted fees.

**Comment #4:** *Please provide the amount of lead time necessary to implement fee increases.*

**Response:** A normal fee increase requires at least 30 days lead time to implement. Due to the changes in the fee structure with the current proposed adjustment to fees, DPH has been working with the Treasurer-Tax Collector to develop a method for implementing the fee adjustment.

**Comment #5:** *Please provide an explanation on how billing will be handled if the fees are approved after July 1<sup>st</sup>.*

**Response:** A Public Health License or Permit is valid from July 1<sup>st</sup> of the current year to June 30<sup>th</sup> of the following year. If the fees are approved, existing operators will be charged the new rates for the entire fiscal year, even if the bills are sent late.

**Comment #6:** *We are interested in structuring flexible payments. Is this feasible?*

**Response:** County Code does not provide for a payment plan for Public Health fees.

**Comment #7:** *Industry has not had enough time to analyze the fee study documents and inform their constituents. Representatives requested to delay the Board vote for 60 days for further review.*

**Response:** On May 10, 2011, the Board of Supervisors delayed action on the fees, and instructed DPH to conduct further outreach to affected parties. Outreach entailed direct mailing, general informational meetings, and industry-specific meetings. DPH held a total of 16 meetings with associations representing the impacted parties between April 26 and June 16, 2011. In addition, public meetings were held on May 3, May 4, May 31, June 13, June 14, and July 7, 2011. Prior notice of the meetings was provided via e-mail, web posting, and direct mail. Notice of the June and July meetings was sent to 130,000 existing and 3,000 proposed new fee payers. For those unable to attend the meetings, EH established an e-mail address and dedicated phone line to receive public comments.

**Comment #8:** *In developing the fees, how did DPH determine risk levels, time required per unit, and labor and overhead rates.*

**Response:** Risk levels were determined using the Federal Model Food Code as a reference. Time required per unit was determined using the professional judgment of EH supervisors and referenced against our data system. Labor rates include field labor, and other direct and indirect costs, as determined by DPH's administrative division.

**Comment #9:** *Fees that are increasing over a certain amount should be provided a relaxed payment window, or the bill should be split throughout the year.*

**Response:** After considering both options, DPH will not be able to offer a relaxed payment or split the billing throughout the year. Traditionally payment is due in August, yet this year payment will not be due until September/October.

**Comment #10:** *Applying a component to the public health permit fee for food facilities for the enforcement of illegal food vendors raises concern regarding the interpretation of Proposition 26.*

**Response:** County Counsel has opined that the inclusion of a component in fees for illegal food vending enforcement is not in violation of Proposition 26. A fee is something imposed solely for the purpose of covering reasonable regulatory costs, as opposed to a tax, which is imposed as a means of raising revenue. As stated, California law permits a governmental entity to charge a fee so long as it does not exceed the reasonable or actual cost of providing services necessary to regulate the activity for which the fee is charged. Again, as previously stated, "reasonable costs" or "actual costs" include all those costs which are incident to the issuance of a license or permit, investigation, inspection, and administration, or with the maintenance of a system of supervision and enforcement. Therefore, reasonable expenses by definition include more than the actual cost of the service provided to an individual fee payer.

As for issues raised by Proposition 26, that proposition provides that any fees enacted by local government are taxes unless the fee qualifies for any one of seven exceptions contained in the measure. The fees being proposed fall into three specific exceptions:

- 1) The "Benefit or Privilege" exception, where the payer is receiving a specific benefit or privilege from the government;

- 2) The "Service or Product" exception, where the fee is a charge for a specific government service or product; and
- 3) The "Regulatory" exception, where the fee is imposed to cover reasonable regulatory costs relating to licenses, permits, investigations, inspections, audits, and related enforcement activities.

Finally, as to the legality of adding to the fees charged to various food establishments the costs associated with the regulation of illegal food vending activities, these fees are not a tax. The law permits the assessment of the costs of these enforcement activities to legally operating food establishments. These establishments receive both a specific benefit and a specific government service as a result of the County's enforcement program.

Further, because illegal food vendors operate outside the law, they do not bear the various costs associated with regulating their establishments. However, the existence of illegal food vendors not only creates a danger to the public, but it also introduces a strong element of unfair competition with legal vendors, such as yourself, who are required to ensure that their establishments are operating within the guidelines of State and County laws. Legal food vendors do not have the power or the ability to create and maintain their own enforcement program, so the County must step in to provide this service. At the same time, the County's enforcement program benefits the legal restaurant owner by eliminating unfair and illegal competition. Because of these benefits, the law supports the addition of this illegal food vending component to the fees charged to lawfully operating food establishments.

**Comment #11:** *If applying an illegal vendor component is not a violation of Proposition 26, can the costs for illegal food vending be spread across a broader spectrum of fee payers?*

**Response:** DPH cannot spread the cost for the enforcement of illegal food vendors across a broader spectrum of fee payers, because each fee was determined by the cost of providing service to a particular industry. DPH maintains that the cost of illegal food vending is associated with the food industry, but is not associated with other non-food industry payers such as solid waste fee payers or swimming pool fee payers, etc.

**Comment #12:** *In determining the Public Health permit fee for a restaurant, the cost of one reinspection is included. If not too many restaurants are receiving a reinspection, consider using the "reinspection fee" process to recover the cost instead of automatically including it in the public health permit fee. What percentage of restaurants receive a reinspection following their initial inspection?*

**Response:** The percent of restaurants that received a reinspection following their initial inspection averaged 82%. The reinspection times for all restaurants were reduced to 80% of the calculated time to be commensurate with the aggregate time required.

**Comment #13:** *Provide proposals that would use fees as an incentive to maintain or improve compliance.*

**Response:** DPH is committed to working with representatives of the restaurant industry to determine the feasibility of a program to reduce inspection frequency based upon good compliance history.

**Comment #14:** *Existing Public Health permit fees support specific regulatory activities whose costs cannot be billed through the permit fee process. Under the proposed methodology for determining public health fees, the costs for these regulatory activities were pulled from the proposed Public Health fees. Provide the list of these regulatory activities.*

**Response:** The regulatory activities that were pulled from the proposed fees because their cost cannot be billed through the permit fee process are:

- Unlicensed housing complaints
- Non-residential rodent complaints
- Ocean monitoring / beach grading
- Vector-borne disease monitoring and prevention
- Investigation of noise and indoor air quality complaints (e.g., mold and asbestos)
- Others (e.g., unlicensed animal keepers, public fresh water swim areas, climate change adaptation)

#### **Comments from Rental Housing Industry**

**Comment #15:** *Please provide information on whether owners are cited if their apartment house swimming pool(s) are not in compliance with the Virginia Graeme Baker (VGB) requirement.*

**Response:** Although owners are not currently cited, as of July 1, 2010, all public pools not in compliance with the new requirements are subject to closure by DPH. Additionally, apartment owners are asked to voluntarily close and not use public pool(s) until they are brought into compliance with the new requirements.

**Comment #16:** *We suggest inspection frequency be reduced for properties with a good compliance history.*

**Response:** DPH is committed to working with representatives of the apartment industry to determine the feasibility of a program to reduce inspection frequency based upon good compliance history.

**Comment #17:** *Please explain when the proposed fees will be implemented.*

**Response:** DPH will continue to receive industry input through the scheduled Board Hearing on Tuesday, July 26, 2011. Should the proposed fees be approved on August 2, 2011, they will be retroactive to July 1, 2011.

**Comment #18:** *On the Multiple Family Dwelling Workload Hours Verification Worksheet, provide an explanation as to why the pre-inspection time is ten minutes and the pre-reinspection time is fifteen minutes. It seems that more time should be claimed for the pre-inspection time rather than the pre-reinspection time.*

**Response:** The times were reviewed and determined to be correct. Prior to conducting an inspection an average of 10 minutes is required to research and verify ownership information. Prior to conducting a re-inspection, an average of 15 minutes is spent in the office to contact tenants of the units in which violations were observed to ensure they are available for the re-inspection.

**Comment #19:** *The Association would like to confirm that cross-training (i.e. swimming pool inspections) of DSE field staff to conduct swimming pool inspections has occurred.*

**Response:** The DSE field staff have been crossed-trained in conducting swimming pool inspections. In order to capture some efficiencies, the same inspector will conduct inspections of the apartment building and swimming pool(s).

### **Comments from Vending Machine Industry**

**Comment #20:** *As an individual owner, I have at least 300 permitted vending machines. Altogether there are approximately 1,200 permitted vending machines owned by individuals in this meeting. DPH inventory of 104 vending machines is inaccurate.*

**Response:** DPH has confirmed that the inventory of vending machines is approximately 1,160 and determined that the "104" vending machines listed on DPH report was an error. The 104 represents the number of invoices issued to vending machine operators, not the vending machine inventory.

**Comment #21:** *Vending machine operators wish to work with DPH to develop an inspection program/fees that work for both parties and are willing to submit information to DPH on how the vending machine industry operates. We recommend freezing fees for this fiscal year while we work with DPH to create and pilot a regulatory program acceptable to both parties.*

**Response:** DPH has agreed to freeze the vending machine permit fee at the current \$62 for this fiscal year and will convene a series of meetings with industry over the upcoming year to explore alternative methods of regulating the industry.

**Comment #22:** *The vending machine industry does not support the idea of scheduled inspections for every vending machine. Scheduled inspections for each machine represent a significant cost in personnel time to the operators. We are recommending inspecting the vending machine warehouses and inspecting vending machines on a complaint basis.*

**Response:** DPH will continue its discussion with the industry to explore alternative methods of regulating the industry.

**Comment #23:** *When a vending machine lacks a sticker, inspectors call and require the owner/responsible person to immediately appear at the location. Sometimes this request is made at 4:00 pm, not allowing time to appear. DPH inspectors indicate that if we do not appear with a sticker for the vending machine, our operation will be shut down.*

**Response:** DPH will review this issue as part of the overall vending machine program review.

**Comment #24:** *When permit stickers are expired, the consumer assumes we're selling expired food products. We are recommending a quicker turnaround time for renewing permits or color coded stickers instead of date coded stickers.*

**Response:** DPH will consult with the Treasurer–Tax Collector to evaluate the possibility of using color coded stickers to indicate the expiration date of the Public Health permit sticker.

**Comment #25:** *An inspector may come across a new vending machine and they inquire about why it's missing a sticker. We are suggesting either pre-buying stickers or DPH allowing a grace period for stickers on new vending machines.*

**Response:** As part of a review of the vending machine enforcement procedures, DPH will evaluate the permitting process for new machines to ensure Public Health permits are issued timely.

### **Comments from Food Processing Industry**

**Comment #26:** *Illegal vendors are committing a criminal/civil act; therefore this is a law enforcement issue. It is not understood why DPH is responsible for regulating illegal vendors.*

**Response:** DPH is responsible for enforcing the California Retail Food Code (Cal Code) and other State and local regulations. The code requires that all retail food businesses have a Public Health permit. The operation of a food facility without a valid permit is illegal. DPH has the authority to request the District or City Attorney's Office to file misdemeanor charges against illegal operators.

**Comment #27:** *Times are tough for this industry with layoffs and the cutting of employee hours. Now DPH is proposing new fees and we're expecting new fees to be imposed by other enforcement agencies (i.e., State and FDA). This is a great expense for the industry. The Board of Supervisors should take this into consideration when approving the new proposed fee changes.*

**Response:** The last Public Health permit/license fee adjustment was four years ago in 2007. DPH is proposing to adjust existing fees only to the extent necessary to offset its costs.

**Comment #28:** *Previously when I had questions about the submittal of "time sensitive" plans or concerns about the plan check process, I attempted to contact the Plan Check Program supervision and was informed that supervision was unavailable, that is, in meetings.*

**Response:** It is the goal of DPH to provide excellent customer service. When a supervisor is not immediately available, your call should be returned promptly. If you believe that you are not receiving an appropriate response from a supervisor, please contact the Office of the Ombudsman at (626) 430-5300 or the Office of the Director at (626) 430-5100.

**Comment #29:** *Plan check approvals take so long. Staff just don't see the urgency to get plans approved. Why does it have to take so long, 21 days? It costs us money.*



**Response:** DPH understands the urgency to have timely review and approval of plans. Plans are reviewed in the order received, and turn-around time depends on the number of plans in the queue. To address this issue, DPH has included an "expedited plan review process," available for an additional fee, as part of the new fee proposal.

**Comment #30:** *DPH needs to eliminate surprises and keep industry informed of proposed changes. Quarterly meetings are held between DPH and Food Industry Business Roundtable (FIBR) to share information which directly impacts the industry.*

**Response:** DPH agrees and acknowledges that the proposed fee changes should have been communicated during our last quarterly meeting. In future quarterly meetings with FIBR, DPH staff will provide updates on such regulatory and policy changes affecting the wholesale food industry during future quarterly meetings.

**Comment #31:** *DPH should have a contact person(s) to receive questions/concerns/ideas from industry on recommended improvements to its regulatory processes and customer service.*

**Response:** DPH intends to designate a contact person and establish regular meetings with industry to receive questions, concerns, and ideas. Questions, concerns and ideas may be submitted to the Office of the Director at (626) 430-5100 or to [phfees@ph.lacounty.gov](mailto:phfees@ph.lacounty.gov) until a contact person is designated.

**Comment #32:** *Small businesses will be greatly affected by the new proposed fee changes. This will most likely cause owners to go out of business and possibly relocate to other counties. DPH should consider incremental fee increases.*

**Response:** The proposed fees are required to cover the costs of regulatory activities. Adopting incremental increases to the fees would prevent DPH from completing regulatory activities. However, DPH is working with the Treasurer – Tax Collector to determine if it is possible to extend the window for payment of fees without penalty.

**Comment #33:** *Northern California does not inspect our type of businesses. State and federal agencies also inspect us. Does LA County have jurisdiction over us?*

**Response:** Los Angeles County has an agreement with the California Department of Public Health that provides authority for EH to regulate wholesale food manufacturers. Several jurisdictions in Southern California also have agreements with the State of California to regulate food manufacturing businesses.

**Comment #34:** *In our business, we have dedicated food safety personnel, so our food safety record is very good, we don't have too many violations. Our inspection frequency or inspection time should be reduced, thus reducing the fee.*

**Response:** Not all food manufacturing businesses have dedicated food safety personnel, Hazard Analysis Critical Control Point (HACCP) plans, and written standard operating procedures. During the coming year, DPH will look at ways to incentivize good food safety practices through reductions in inspection frequency and/or reductions in reinspection time for businesses with a proven record of food safety.

**Comment #35:** *Costs are rising for us and you. If you have to raise the fee, give us something in return (e.g., better service).*

**Response:** DPH is committed to providing excellent customer service and examining incentives for good food safety practices. These issues will be addressed during upcoming quarterly meetings between DPH and FIBR. In the interim you may submit suggestions to the Office of the Director at (626) 430-5100 or at [phfees@ph.lacounty.gov](mailto:phfees@ph.lacounty.gov).

#### **Comments from Motion Picture Catering Industry**

**Comment #36:** *Letter grading of mobile food facilities (MFF) associated with movie or television production is problematic. Arguably, this industry should have been exempt from the MFF grading ordinance. The current practice of grading should either be suspended or modified to lessen the impact on the industry.*

**Response:** Pursuant to California Retail Food Code (Cal Code), local jurisdictions may adopt a grading program for retail food facilities. In 1998, the County adopted a grading ordinance that applies to retail food establishments such as restaurants, food markets, and caterers. In 2010, the ordinance was amended to include mobile food facilities and catering trucks. Los Angeles County Code, Title 8 does not allow for exemption from grading based on the nature of the business or the impact created. We are however interested in working with the Association to lessen the impact of grading on mobile catering operations within the motion picture and television production industry.

**Comment #37:** *Separate permits are required for an MFF and cooking/serving outdoors. Cooking/serving food outdoors is a necessary part of movie and television production.*

**Response:** DPH acknowledges there are special needs associated with serving meals during motion picture production, and that outdoor preparation and service is a valuable aspect of the service provided. Cal Code prohibits a MFF from conducting outdoor preparation/service of food; however, Cal Code does allow for temporary outdoor food service subject to specified requirements. Title 8 includes licensing for temporary outdoor food service, and DPH believes this may provide a good approach to resolving the identified problem. It may also be an effective way to address the grading issue referenced in Comment #35 above. This solution would require a change in Departmental policy and a possible amendment of Title 8.

**Comment #38:** *DPH utilizes several different inspectors that are not familiar with the needs and practices of this MFF segment.*

**Response:** Cal Code establishes universal food safety standards based on the best available science. These standards are applicable to all food facilities, including MFFs. Inspectors in our Vehicle Inspection Program are generally well versed in checking for compliance with these standards in a variety of settings. We are open to working with you to explore solutions for practices that may not currently meet these standards. We believe these solutions, once developed, can then be incorporated in the inspection and enforcement efforts of our inspectors. Initially it may be advisable to designate two or three inspectors to handle the mobile catering industry to help ensure consistent and predictable enforcement.

**Comment #39:** *MPTMCA caterers utilize box truck/trailers that are currently unpermitted. Bringing these facilities into compliance would involve substantial upgrades and expense.*

**Response:** Under Cal Code, all food vehicles are required to be permitted and to comply with specified standards. The referenced food vehicles are currently unpermitted and must be upgraded as necessary to meet State standards. DPH recognizes that substantial work is required to achieve these standards, and believes that a “schedule of compliance,” by which non-compliant vehicles are upgraded in a phased manner, may be an appropriate course to follow. DPH looks forward to working with the industry to this end.

**Comment #40:** *MPTMCA caterers need to feed large groups in a short period of time. The use of sneeze guards at buffet lines is sometimes not feasible.*

**Response:** Cal Code requires that food be protected from contamination at all times, and this is particularly important during customer self service. We understand the issue caterers often face when service is required for an unexpectedly large group of consumers. There are several methods for providing adequate protection in addition to sneeze guards as referenced in your proposed solution. DPH looks forward to discussing these other options with you.

**Comment #41:** *In the case of movie and television production, inspections can be extremely disruptive to food service due to the short period of time negotiated for meal breaks and limited kitchen space in a MFF. MPTMCA suggests DPH not inspect MFFs during or immediately prior to food service.*

**Response:** There are a limited number of critical checks that are made during our inspections which potentially may interfere with food service. These include a check of food temperatures and availability of potable water, which are key factors in preventing food borne illness. Beyond these checks, the inspector generally observes food handling practices, which does not typically interfere with food service.

**Comment #42:** *MPTMCA suggests DPH requires a daily reporting of jobsite locations, which may not be feasible as scheduling information is often not available until the night before or the day of the event.*

**Response:** DPH does not require daily reporting of jobsite locations, and certainly understands such information is often unknown in advance. The County ordinance requires MFF operators to routinely provide information on business locations so that DPH can perform unannounced inspections. We are open to discussing ways in which MPTMCA can feasibly comply with this requirement.

**Comment #43:** *MPTMCA indicates it was not notified or given advance notice regarding amendments to Title 8 regulatory fees. It is suggested that a process be provided for ongoing discussions with DPH about licensing permitting and inspection issues. The association also states that permit holders should be able to share their concerns without fear of retaliation from DPH.*

**Response:** DPH recognizes the need of the industry to receive prior notification of proposed regulatory changes, including fee adjustments. As you know, DPH has been in discussions with members of your association since January, 2011. In addition, we look forward to further discussions with the association on those issues referenced above as well as other concerns related to the proposed schedule of fees. We are also committed to developing an ongoing relationship with your industry so that we can identify

and resolve issues as they arise. We certainly agree that permit holders should be able to share their concerns without fear of retaliation.

#### **Comments from Mobile Food Vendor Industry**

**Comment #44:** *The Vehicle Inspection Program needs oversight. Inspectors in the field work away from supervisors giving them unrestricted power over the vendors they are inspecting.*

**Response:** Vehicle Inspection Program (VIP) inspectors report directly to the Chief EHS of VIP and are required to report to supervision throughout the workday. Inspectors enforce Cal Code standards for all Mobile Food Facilities (MFFs) and their inspection reports are reviewed by supervisors for consistency with Cal Code requirements. Inspectors are required to secure approval from supervisors prior to taking enforcement actions to close a MFF.

**Comment #45:** *When vendors are shut down and must come in for a hearing, these “hearings” are less about what happened in the field and more about admitting guilt and doing anything to get the truck open.*

**Response:** Field inspection findings are detailed on the official inspection report. Office hearings are the next step in potential enforcement and are used by DPH to assure that operators are fully aware of all outstanding violations. Operators of MFFs that have been closed will be advised of what requirements must be immediately corrected in order for the MFF to be reopened.

**Comment #46:** *Operators should be allowed to audio and video record inspections. This option should be established as part of Department policy.*

**Response:** Audio and video recording of inspections and inspection staff requires legal review and guidance from County Counsel prior to considering and/or implementing related policies.

**Comment #47:** *Trucks are routinely closed down using the wrong code sections as authority. MFFs are exempt from Cal Code Section 114250, and violation of the restroom letter requirement should only be marked as a minor violation. VIP must better align its policies with code requirements.*

**Response:** We have identified and corrected the code section number referenced as a basis for closure. VIP inspection staff has been instructed to refer to Cal Code section 114315 when closing a MFF that is not within 200 feet of an approved restroom and is observed operating in one location for more than one hour. We agree that the absence of the restroom letter by itself warrants marking of a minor violation. However, if during the inspection, the inspector is not able to verify authorized access to an approved facility, the violation is considered “major”.

**Comment #48:** *Cal Code section 114315 only requires that a MFF have access to a restroom. It does not require a MFF to have a restroom letter.*

**Response:** Adequate restroom facilities for food handlers are critical element of public health protection. As the enforcement agency, DPH requires restroom letters to ensure that restroom facilities are available to MFFs that operate in one location for more than one hour.

**Comment #49:** *VIP inspectors should allow owners of restrooms to make repairs during the course of a routine inspection rather than closing the MFF that relies on the restrooms being repaired. As an option, inspectors should allow MFFs to relocate within 200 feet of a fully operable restroom facility.*

**Response:** If authorized and adequate restroom facilities can be provided prior to the conclusion of the inspection the facility will not be closed.

**Comment #50:** *There should be a spirit of cooperation between vendors and DPH, not a default position that closing a truck is the most desirable outcome.*

**Response:** It is DPH's mission to protect public health and safety. Closure of a MFF only occurs when it is determined that observed conditions pose an imminent risk to public health and safety. DPH has provided several educational workshops for the industry and is committed to developing an ongoing relationship with the mobile food industry so that issues can be identified and resolved.

**Comment #51:** *VIP does not allow vendors to rent space at a commercial or wholesale kitchen to do prep work. Making commercial kitchen rentals illegal has encouraged mobile vendors to break the law and prep at unapproved areas of their commissaries or even out of their home.*

**Response:** DPH is open to reviewing proposed plans that would allow for multiple food businesses to share commercial kitchen space designed and constructed for this purpose.

**Comment #52:** *It is not reasonable to expect DPH to be able to keep track of thousands of route reporting faxes each week. As an alternative, the association is constructing a website that will allow for route reporting and would like to give DPH full access.*

**Response:** As discussed in previous meetings between DPH and industry stakeholders, business locations can be reported by mail, fax, e-mail, and/or in person. Presently, DPH is exploring the option of web-based route reporting and is open to discussing this further with your association.

**Comment #53:** *Many commissary owners also lease trucks and require the lessee to rent space at the commissary. The guaranteed rental revenue allows commissary owners to become complacent and they do not properly maintain the commissary consistent with Cal Code requirements.*

**Response:** During the past year, DPH has worked to improve compliance at commissaries, and will continue to educate commissary operators and hold them responsible for meeting all applicable requirements set forth in Cal Code.

**Comment #54:** *Parking lots and private lots have become popular locations for MFFs to congregate and conduct business. DPH should make it easy for MFFs to secure permits for operating in groups at parking lots.*

**Response:** The process for securing a food event permit is well established, and the applicable requirements to assure food safety are set forth in Cal Code. DPH issues a permit to the event sponsor after reviewing a plot plan and confirming that all MFF permits are current and applicable local agency approvals have been secured.

**Comment #55:** *MFFs should not be required to secure a permit for operating in groups at a parking lot or private lot if they are already permitted as an approved MFF.*

**Response:** See response above. A separate permit is issued to the event sponsor, not to individual permitted MFFs, in order to ensure venue sanitation is maintained.

**Comment #56:** *If a parking lot or private lot holds less than 6 MFFs and an approved restroom is not available within 200 feet, a honeywagon should be allowed as a substitute to fixed restroom facility.*

**Response:** The use of portable toilets, including honeywagons, when accompanied by appropriate hand washing facilities, may be used in conjunction with an approved food event.

**Comment #57:** *Many complaints are filed by MFF operators against MFF operators that are business competitors. DPH should maintain a record of all people who submit complaints in order to identify individuals who routinely submit complaints not related to health and safety.*

**Response:** DPH is required to respond to all complaints alleging violations of the Health and Safety Code. DPH does not respond to complaints regarding business competition.

**Comment #58:** *Inspectors should not conduct full inspections if they are responding to a complaint alleging the absence of a restroom letter. The inspector should only investigate the complaint.*

**Response:** DPH does not automatically conduct a full inspection in response to a specific complaint. If however, the MFF is due for a routine inspection, then both are addressed at the same time to increase efficiencies. In any event, if significant violations unrelated to the specific complaint are observed, those observations will also be noted.

**Comment #59:** *Many operators maintain a permit for unused MFFs in order to maintain "grandfathered" status and avoid costly upgrades to meet current standards. Since they are actively permitted, inspectors are required to inspect them regardless if they are currently being used. DPH should offer a permit that allows MFFs to go unused and still maintain "grandfathered" status, but not require them to be inspected.*

**Response:** The idea of offering an alternative permit for MFFs that are not in operation is being reviewed.

**Comment #60:** *Many production companies employ unlicensed Craft Services vehicles for food service. These Craft Service vehicles do not meet Cal Code standards and should be fined by DPH.*

**Response:** Enforcement actions have been implemented for unlicensed food operations whether operated by individuals or production companies. Fines are assessed by the courts and violations of the California Health and Safety Code are classified as misdemeanors generally carrying up to \$1,000 in fines or six months in jail.

**Comment #61:** *DPH must make illegal food vending a priority and increase fines for unlicensed vendors.*

**Response:** Los Angeles County is one of the few, if not the only, Environmental Health agency in the United States with a unit exclusively dedicated to unlicensed street vending of food. Violations of the California Health and Safety Code are misdemeanors and fines are assessed by the court.

**Comment #62:** *Commissaries should receive large fines for noncompliance and selling VIP letter grades.*

**Response:** Commissaries as with all food facilities are inspected according to applicable laws and regulations. Fines are assessed by the courts and violations of the California Health and Safety Code are classified as misdemeanors generally carrying up to \$1,000 in fines or six months in Jail. To date, we have not received any complaints alleging the sale of VIP letter grades.

**Comment #63:** *Many MFFs receive several inspections as a result of conducting business at multiple community events. Excluding complaint investigations, the frequency of inspections should be limited to twice per year.*

**Response:** MFFs are inspected in the field twice per year and once per year for the certification inspection. Complaint investigations may be conducted in addition to these established frequencies and are dependent on the number complaints received by DPH.

**Comment #64:** *New inspectors take too long to conduct inspections and cost MFF operators hundreds of dollars by impeding business. These inspectors should be properly trained to expedite the inspection process.*

**Response:** VIP inspection staff is fully trained in accordance with State criteria and are generally well versed in checking for compliance with Cal Code requirements. There are a limited number of critical checks that are made during our inspections which potentially may interfere with food service. Beyond, these checks, the inspector generally observes food handling practices which does not typically interfere with food service.

**Comment #65:** *We would like to know the average time required to conduct a routine MFF inspection.*

**Response:** The average time to complete two annual routine inspections and two reinspections for low risk carts and vehicles is 4.33 hours, for high risk carts is 4.83 hours, and for high risk vehicles is 5.67 hours.

**Comment #66:** *MFF operators are uncertain of the procedures required to prepare for pest control fumigation.*

**Response:** Enforcement of pest control regulations is under the authority of Los Angeles County Department of Agricultural Commissioner/Weights and Measures. A fumigation advisory is available upon request from the Los Angeles County Agricultural Commissioner by calling (626) 575-5466.

**Comment #67:** *Operators who are closed for not having a valid restroom letter should be given the option to bring their MFF to the hearing to expedite the reopening process.*

**Response:** DPH will advise operators that their MFF may be brought to their scheduled hearing to expedite reopening. The operators must also bring one of the following to the hearing: 1) a valid restroom letter for the location where the MFF was closed, 2) an updated route sheet that excludes the

location where the MFF was closed, or 3) a signed statement acknowledging the time restrictions for vending without access to a restroom.

### **Comments from Other Organizations and Individuals**

#### **SRO Housing Corp**

**Comment #68:** *The proposed deletion of exemptions for charitable activities would be costly for our organization and impact our ability to provide services to the homeless. We request that EH maintain the charitable exemption for charities serving the homeless in order to allow non-profit SRO's to continue to be exempt.*

**Response:** DPH expanded the charitable exemption for non-profit companies to include those operating housing for the homeless that also provide free supportive services.

#### **Central City Association**

**Comment #69:** *DPH has compared the proposed Los Angeles County Public Health fees with other counties' fees but not with San Francisco's or San Diego's.*

**Response:** The fee study presentation included comparisons with Orange County, Sacramento County, and Alameda County. DPH believes that these counties provided a good basis for the comparison of fees. The presentation is available on our website at <http://www.publichealth.lacounty.gov/eh/>.

**Comment #70:** *Under the proposed fee ordinance, certain permit holders will no longer be fee exempt. Feeding and sheltering the homeless should remain conditions in which a permit holder will be fee exempt.*

**Response:** DPH has retained fee exemptions for organizations with a valid federal 501(c)3 status if the activity permitted will provide meals without charge, house persons without charge, house persons at a reduced rate through Permanent Supportive Housing, or provide therapeutic services without charge.

**Comment #71:** *Cost recovery for services performed by DPH is the basis for the proposed Public Health permit fees. In determining the fee, the inspection frequency of each service varies.*

**Response:** DPH determines inspection frequencies based on State mandates and the public health risk associated with the activity. In the case of food facilities, the Federal Model Food Code provided the basis for determining risk categories and inspection frequencies.

**Comment #72:** *In determining fees, DPH should consider the operational history of a facility. Problem facilities that require additional inspections should pay a higher fee than those facilities in the same category that consistently have excellent grades.*

**Response:** DPH is committed to working with representatives of regulated industries to determine the feasibility of a program to reduce inspection frequency based upon good compliance history.



**Comment #73:** *DPH is proposing 37 new permit fee categories. It appears that cafeterias in hospitals may be considered one of those new permit fee categories, even though these hospitals are already subject to inspections by DPH's Health Facilities Division.*

**Response:** Hospital cafeterias that prepare patient meals and are also open to the public are inspected by the Health Facilities Division and are not subject to restaurant fees indentified in the proposed ordinance.

**Comment #74:** *In determining permit fees, the complaint response time was considered. DPH should also consider whether the complaint was justified, and only include the time for justified complaints.*

**Response:** By policy, DPH investigates all complaints. The cost of investigating all complaints, some of which may turn out to be unjustified, is included in the permit fee to ensure DPH has the ability to respond appropriately to complaints from the public. The complaint component included in restaurant fees is limited to 0.39 – 3.0 minutes.

**Comment #75:** *The timeline to obtain approval of the proposed fees is short and does not give operators time to prepare for fee increases.*

**Response:** DPH acknowledges that some fee increases may have an impact on businesses and is looking into extending the due date to allow operators more time to pay the fees. In the interim, all existing permits will remain valid until the new fee ordinance becomes effective and permits are issued sometime in September 2011.

### **Public Meetings and Emails**

**Comment #76:** *We are struggling to stay in business due to the bad economy. If fees are increased this will be detrimental to business. Instead of raising fees DPH should consider cutting internal costs. DPH received 25 similar emails.*

**Response:** The last Public Health permit fee increase was in 2007. DPH is proposing to adjust existing fees only to the extent necessary to offset actual costs and is working with industry and program managers to identify further cost reduction efficiencies.

**Comment #77:** *Our apartment complex is well maintained. You should charge more to those that are dirty.*

**Response:** DPH will continue to work with representatives of the apartment industry to determine the feasibility of a program to reduce inspection frequency based upon good compliance history.

**Comment #78:** *Our agency is a non-profit organization (501c3), and in past years we were fee exempt. Will charitable activities remain fee exempt with the new proposed fee changes?*

**Response:** DPH is continuing to allow charitable fee exemptions for companies registered with the federal government as a 501c3 and providing free food, free housing, housing with free supportive services, or free therapeutic services.

**Comment #79:** *I am in a rent controlled city and therefore unable to pass the cost of the increase to my tenants.*

**Response:** The proposed fee adjustments are intended to cover the cost of the services provided by DPH.

**Comment #80:** *Small water systems are not regulated by the State. DPH should not be creating a fee for regulatory purposes.*

**Response:** This category only includes County owned property that DPH is responsible for inspecting, such as libraries and probation camps. The inclusion of this fee allows DPH to bill other County agencies to recover costs for inspecting the water supplies serving their locations. This fee does not apply where single family homes share a well.

**Comment #81:** *My public health fee will increase from \$1,632 to \$2,279 annually, for no apparent reason, other than to close a county budget deficit gap.*

**Response:** The methodology used to establish fees is based on actual costs.

**Comment #82:** *According to the MGT report, inspection time at a facility such as mine is 9.11 hours of Time Required Per Unit. The MGT Summary Sheet suggests for inspection of a Wholesale Food Processor be raised to 16.95 hours, raising the Public Health fee to \$2,279. I have been in the restaurant business for many years and have not experienced an inspection time of 16.95. The User Fee Summary Study Sheet inspection time of 9.11 hours is more accurate.*

**Response:** DPH found it necessary to adjust some of the figures presented in the MGT report. The final report "Time Required Per Unit" includes the pre-inspection activities, drive time to the location, inspection time, and post inspection activities for a routine inspection and one revisit inspection. The actual time required for a Wholesale Food Processor is based on three inspections and three reinspections each year.

**Comment #83:** *Another flaw in annual restaurant Public Health fees is the use of seating to calculate fees. Realistically, there are some restaurants 1000 sq ft, seating 30 customers, while others may seat 150 customers. There are some minor factors to be considered regarding the variance in seating capacity. The huge increase in annual fees for additional seats is not warranted.*

**Response:** The proposed restaurant fees are based primarily on food safety risk and secondarily on the number of seats. Food safety risk is classified into risk categories which include "high", "moderate," and "low" risk. Risk category and number of seats combined are used to determine the time allotted to conduct an inspection and the number of inspections required. This time is then used to calculate the permit fee.

**Comment #84:** *MGT has suggested increasing inspection time and raising Public Health fees to cover the deficit. This will force small businesses to stop operation and relocate to another state. The practical and reasonable solution to the deficit is internal cutting of costs.*

**Response:** The methodology of tying fees to the actual costs associated with conducting a service has not resulted in a simple increase of fees to cover a deficit, and although some fees are increasing, many are also decreasing.

**Comment #85:** *The ramifications to health standards if fees are not approved, as stated on the County website is overstated and is considered a scare tactic to get fee increase passed.*

**Response:** If the proposed fee adjustment is not made, reductions in regulatory activities will be needed resulting in a weakening of public health protection.

**Comment #86:** *The plan check fees for retail vehicles are not stratified. It is unfair for cart operators to be charged the same amount as a food truck which requires a greater amount of time to review.*

**Response:** DPH will examine the times required to conduct plan reviews of the various food vehicles to determine whether the fees should be stratified.

**Comment #87:** *Food carts are built from standard plans. The requirement that we pay the plan review fee for each food cart appears to exceed your costs.*

**Response:** DPH discontinued accepting standard plans for food vehicles because costs associated with the final inspection and approval of the cart were not being recovered. DPH will consider changes to the plan check process to allow submission of standard plans for food carts with a separate fee for menu review and construction approval.

**Comment #88:** *The current illegal vendor enforcement program is ineffective, as the situation with illegal vendors has worsened. DPH should take a different approach, such as educating illegal vendors, instead of regulating them.*

**Response:** Although education is an important aspect of controlling illegal vending, DPH is mandated by State law to regulate food vendors operating without a valid Public Health permit. In addition to educating and regulating the operators, DPH has developed a letter grading program to help the public distinguish between legal and illegal mobile food vendors.

**Comment #89:** *When DPH confiscates equipment from the illegal food vendors and delivers it to a scrap yard, DPH staff does not verify the destruction of the equipment. The scrap yard is reselling the equipment to illegal food vendors.*

**Response:** DPH will investigate this matter. DPH was unaware of the allegation of scrap yards reselling equipment to illegal food vendors.

**Comment #90:** *We are the owners of a six-unit condominium, without a spa/swimming pool or common room. Why are we required to pay for an annual Public Health permit?*

**Response:** A condominium with five units or more is considered a multiple family dwelling and by definition it is required to have a Public Health permit.

**Comment #91:** *The DPH housing program appears to duplicate the work of city enforcement programs.*

**Response:** DPH's housing inspection program provides a consistent County-wide enforcement program to any city that adopts the County Public Health Code. The provision of additional housing inspection services are at the discretion of each city.

**Comment #92:** *DPH should determine the frequency of inspections for restaurants/multiple family dwellings based on compliance history. DPH should also determine Public Health fees based on a food facility's letter grade.*

**Response:** Environmental Health will examine methods to incentivize compliance during the next year, including reducing the number of inspections required for facilities with good compliance history. However, the criteria for determining compliance history will include more than the current grade.

**Comment #93:** *DPH should lower fees for high risk restaurants by not including multiple re-inspections within each fee.*

**Response:** DPH's data indicates that 82% of restaurants receive a re-inspection after a routine inspection. Reinspection is need to ensure deficiencies are corrected.

**Comment #94:** *In analyzing inspection times, does DPH utilize an unbiased survey or is a computer database capable of computing inspection times?*

**Response:** DPH utilized both the professional judgment of supervisory personnel and an internal computer database to determine the complete inspection times.

**Comment #95:** *If an operator believes an inspector is being unfair and/or biased, is there an independent body/outside agency where we can express our concerns?*

**Response:** Complaints against an inspector are investigated within the County. If an operator believes they are being treated unfairly by an inspector, they may bring the matter to the attention of the employee's supervisor, DPH's Ombudsman at (626) 430-5300, or the County's Fraud Hotline at (800) 544-6861 or at [www.lacountyfraud.org](http://www.lacountyfraud.org).

**Comment #96:** *There is an illegal food vendor who operates in front of my business, every night at 7 pm. I contacted the health department and was told an inspector will conduct a complaint investigation in 2-3 months. Why does DPH take so long to respond to illegal food vendor complaints?*

**Response:** DPH makes an effort to respond to non-emergency complaints within a reasonable amount of time. We receive a high volume of illegal food vendor complaints, which may impact our response time.

**Dr. Panagiotis Theodoropoulos**

**Comment #97:** *DPH is allowing vendors at certified farmers' markets within the County of Los Angeles to sell food products made in locations outside of the County. Many of these facilities are believed to be unlicensed and should be inspected by the Los Angeles County Department of Public Health.*

**Response:** DPH requires all vendors who prepare food at a location other than their food booth to prepare the food at an "approved location" or obtain the food from an "approved source." The Los Angeles County Health Officer does not have the legal authority to conduct inspections of food facilities in other jurisdictions. DPH does refer complaints about such food facilities to the appropriate jurisdictional authorities. If you have a specific complaint, DPH will refer it accordingly.

**Comment #98:** *The fee study conducted by MGT indicated that some fee payers were overcharged.*

**Response:** This is incorrect. Prior to the new rate setting methodology adopted in light of the MGT study, DPH's annual health permit and license fees were charged to all fee payers based upon DPH's total operating costs. These costs were spread over all license and permit fee categories, without regard to whether the cost for a particular category had increased. This fee setting methodology was legally sound and permissible as the law does not require that fees be calculated proportionately, on an individual basis. Regardless, DPH believed that its prior methodology resulted in certain inequities among the fee payers that it wished to eliminate. The new fee setting methodology more precisely and more accurately considers the true cost of the regulatory services provided to the fee payers. Thus, the change in methodology also better aligns individual fees with the corresponding costs. As a result of this change in methodology, some of the existing fees will increase while others will decrease.

**Comment #99:** *The fee study incorrectly states that temporary food booth permits are issued annually.*

**Response:** It is not true that MGT stated that temporary food booth permits are issued annually. The column titled "annual volume" indicates the number of permits issued each year, not the period of validity. Regardless, the MGT Fee Study recommended that DPH offer annual permits to temporary food booths operating at certified farmers' markets. In the proposed fee ordinance, DPH has implemented this recommendation which will reduce the actual permit fee charged to these temporary food booth operators. This option will be available to temporary food booth operators who will operate beyond the 25 days allowed in a quarterly permit. Thus, temporary food booth operators at certified farmers' markets may now choose between a quarterly permit or an annual permit.

**Comment #100:** *It is illegal to charge for a permit for a temporary food booth operating at a certified farmers' markets on a quarterly basis.*

**Response:** This is incorrect. State law permits DPH to recover the "reasonable expenses" associated with its regulatory functions, and in the case of retail food facilities, DPH is legally entitled to recoup its "actual costs" related to its enforcement activities. Therefore, the amount of time for which a permit is valid is not relevant.

**Comment #101:** *It is illegal to require a second permit to have both sales of prepackaged food and samples of open food as Environmental Health has done since 2008.*

**Response:** This is incorrect. State law permits DPH to recoup its reasonable and actual enforcement costs. The law currently allows for issuance of either a prepackaged food booth permit or food preparation permit. Since the offering of open food samples does not qualify for a prepackaged food permit, a second permit for the sampling was issued as an accommodation to the vendor. The alternative would have been to issue a single food preparation permit at a higher cost to the vendor. The proposed fee ordinance creates a special category for prepackaged food with sampling, which is authorized by a single permit.

**Comment #102:** *It is illegal to charge vendors at the community event portion of a certified farmers' market for permits because they are not temporary events or carnivals as stated in Los Angeles County Code, Title 8.*

**Response:** This is incorrect. The California Retail Food Code and Los Angeles County Code require temporary food booths operating at community events to be permitted. The definition of a "community event" is "an event which is of a public, civic, political, or educational nature" and that definition is illustrated by a number of examples, including a "carnival" as well as a "certified famers' market." Thus, a charge for a food booth operating at a certified famers' market within a community event is legally permissible.

**Comment #103:** *It is illegal to charge vendors at a certified farmers' market permit fees because DPH charges the organizer of a certified farmers' market for a permit as well.*

**Response:** This is incorrect. As stated, the law allows DPH to recoup its reasonable and actual costs of enforcement. In this instance, different enforcement activities are undertaken and different fees are legally allowed. Under State and County law, and as stated previously, temporary food booth operators must have permits to operate. Thus, the inspection related to a temporary food booth is an expense for which DPH is entitled to be reimbursed. Likewise, enforcement activity related to the community event itself is also required. The fees for the community event sponsor are based on time required for plan review, inspection, and confirmation of compliance to regulations regarding public and support areas of the community event.

**Comment #104:** *All inspection times used in the fee study are too long and are therefore incorrect. Who determined the times?*

**Response:** The inspection times within the fee study accurately reflect the estimated time required to complete each service. The time allocated to conduct an inspection includes pre-inspection activities, drive time to the location, inspection time, and post inspection activities for a routine inspection and one revisit inspection. Inspection times for each specific type of service were determined by members of the Environmental Health management team. DPH is currently reviewing the inspection times to confirm accuracy and correct any errors.

**Comment #105:** *No explanation has been given as to how an inspection rate of \$110.00 per hour was calculated.*

**Response:** The hourly rate includes field labor, and other direct and indirect costs, as determined by DPH's administrative division. All costs in the fees have been reviewed the County Auditor-Controller.

**Comment #106:** *The proposed permit fees are much higher than the actual costs to conduct an inspection and are therefore illegal.*

**Response:** This is incorrect. As stated previously, the law does not require the fee setting process to be individualized. A fee may be disproportionate to the service rendered to individual payers, and proportionality is not measured on an individual basis. It is measured collectively, considering all rate payers. The proposed permit fees now more accurately reflect the actual costs to perform each service provided. The fee study determined the time to perform each service, which included time to conduct the service, such as a restaurant inspection, and the number of times per year the service was

conducted. This methodology has resulted in fees that more accurately reflect the true cost of performing services.

**Comment #107:** *The fee study included improper comparisons of temporary food booth permit fees with other counties.*

**Response:** This is incorrect. The fee study includes a table designed to present the range of fees charged by different counties for many different types of permits including food, housing, and specialized inspections. This table is illustrative and nothing in law or policy precludes its use. To that end, a range of fees is presented. A direct comparison of specific temporary food booth permits was not included as it would not be entirely accurate. Counties charge fees for sponsors of community events and temporary food booth permits based on a number of variables, including the length of the event, the number of food vendors, and the type of food sold.

**Comment #108:** *Comparison of the current fees for temporary food booths at certified farmers' markets to other counties show that the fees charged by Los Angeles County are too high.*

**Response:** As stated previously, every county sets its fees based on its regulatory approach and costs. Los Angeles County's fees are supported by fact and law.

**Comment #109:** *The permit fees charged by other counties included in the fee study are incorrect.*

**Response:** The permit fees charged by other counties noted in the fee study were obtained from the other counties. The data was collected in 2010 and may have been adjusted since that time. However, at the time of its inclusion, the information was accurate to the best knowledge of DPH and its consultant.

**Comment #110** *Why are different farmer market vendors charged different fees (permits for prepackaged food, prepackaged food with samples, food preparation) per quarter?*

**Response:** The range in fees is due to the complexity and potential health risk associated with the different types of temporary food booths.

**Comment #111:** *Why are indirect costs included in the hourly rates 65%?*

**Response:** The estimate of 65% indirect costs is incorrect. The actual breakdown is roughly 45% direct costs to 55% indirect costs. Indirect costs include overhead for support provided to Environmental Health by the County and DPH. Regardless, the law permits fees to be calculated on the overall cost of governmental regulation. Indirect costs are part of that overall cost.

**Comment #112:** *Explain the disparity between the actual time to conduct an inspection and the time allotted for inspections in the fee study.*

**Response:** As detailed previously, the time allotted for inspections includes review of the pre-inspection activities, time to drive to the location, inspection time, and time to complete associated documentation after the inspection. The time required to conduct an inspection as you estimated is incorrect, as it considers only your individualized circumstances and does not include all time associated with the enforcement program.

**Comment #113:** *Are there daily inspection quotas?*

**Response:** There are no daily inspection quotas. However, there are monthly and yearly goals that inspectors are expected to achieve so that facility inspection rates are met.

**Comment #114:** *Is there an inspection start and end time on the inspection report used for restaurants to track the time to conduct an inspection?*

**Response:** The report contains an inspection start and end time section, but those times are not used to track the time to conduct the inspection.

**Comment #115:** *How is it verified that inspectors are not going home early or going out shopping while on the clock?*

**Response:** Audits of inspectors' time and activities are conducted by district office supervisors, the internal Quality Assurance program, and the Los Angeles County Auditor's Office.

**Comment #116:** *Legally permitted facilities should not be held responsible for cost of illegal vendor enforcement.*

**Response:** See response to Comment # 10.

**Comment #117:** *There is a huge discrepancy on the inspection time for certified farmers markets.*

**Response:** Further review of inspection times for the temporary food booth permits and the temporary food booth permits-annual at certified farmers' markets resulted in changes to the inspections times. Copies of the revised Workload Hours Verification Worksheets are attached.

**Comment #118:** *Most times my facility does not receive a re-inspection. Out of three routine inspections we might receive one reinspection.*

**Response:** Although individual restaurants have varying reinspection rates, Environmental Health's records indicate that 82% of routine restaurant inspections result in a re-inspection. Environmental Health revised the reinspection times for restaurants to 80%.

**Comment #119:** *Currently the County does not have a program for verifying an employee's health. It may be in the best interest of the County to develop an annual health certification. It is a challenge for food operators to monitor sick employees.*

**Response:** Currently, the California Retail Food Code requires food employees to report specified diseases to their supervision and for supervision to report the employees to the local health department. An annual health certification program may be considered in the future.

**Comment #120:** *When the health department conducts an inspection at my restaurant, the inspection time is usually approximately thirty minutes. When my restaurant was inspected recently, the inspection time was two hours. Is there an explanation as to why there is such a difference in inspection times?*



**Response:** The inspection time can vary from inspection to inspection for any given facility. The inspection time is dependent upon violations observed, time spent by inspector asking questions, documentation time, and explaining the report.

**Comment #121:** *Why is the cost of illegal food vendor enforcement being charged to legitimate businesses?*

**Response:** DPH believes that legally permitted food facilities benefit from enforcement actions against illegal vendors due to the reduction in competition. DPH consulted with County Counsel regarding allocating the costs of illegal food vendor enforcement to permitted food facilities and was informed that this method complied with the requirements of Proposition 26.

**Comment #122:** *To reduce the cost for restaurants, why not conduct two inspections annually at \$817, rather than three inspections at \$1209, and remove the 9.9% illegal vendor multiplier.*

**Response:** DPH bases the number of inspections on the risk associated with the type of food preparation conducted at a restaurant. Facilities categorized as high risk require three inspections per year. The removal of an illegal vendor component within food facility fees would reduce DPH's ability to respond to complaints regarding illegal food vendors.