



Legislation Text

File #: 19-1536, **Version:** 1

Environmental Management Department recommending the Board approve and authorize the Chair to sign Resolution **230-2019** establishing protocol for partial cost recovery during the performance of investigations of real property subject to contamination resulting from the manufacturing and processing of illegal hazardous substances, including methamphetamine and opioids, in accordance with the requirements set forth in California Health and Safety Code section 25400.22.

FUNDING: Non-General Fund / Potential partial cost recovery revenue for County Service Area No. 10 - Hazardous Materials Incident Response funds.

DISCUSSION / BACKGROUND

Pursuant to County Ordinance Code, Chapter 8.38, sections 8.38.250 and 8.38.260, the Environmental Management Department (Environmental Management), operating as the local Certified Unified Program Agency (CUPA), provides hazardous materials incident response services for the County and other surrounding local jurisdictions. On an as-needed basis, Environmental Management's Hazardous Materials Incident Response Team (Hazmat Response Team), in coordination with the respective law enforcement agencies, responds to suspected illegal hazardous substances and/or clandestine drug laboratories to support local law enforcement and investigate the property for potential contamination resulting from hazardous chemicals utilized during the manufacturing and processing of illegal substances.

On January 1, 2005, the State of California passed the Methamphetamine Contaminated Property Cleanup Act of 2005, including California Health and Safety Code sections 25400.10 through 25400.47. This Act provides a mechanism for the local jurisdiction to recover costs related to performing investigative services as well as an effort to ensure the subject property cannot be transferred to another party without the other party's knowledge that it does not meet standards safe for habilitation.

Due to the growing use and production of fentanyl, an opioid, throughout the state, the State of California passed Assembly Bill 1596 (AB 1596) on October 9, 2019, which, among other things, renamed the Methamphetamine Contaminated Property Cleanup Act of 2005 to the Methamphetamine or Fentanyl Contaminated Property Cleanup Act. As such, all of the provisions in regard to methamphetamine contaminated properties of the original act apply to fentanyl contaminated properties as well.

Pursuant to California Health and Safety Code, section 25400.11, Environmental Management, operating as the CUPA, is authorized to represent the County for issues regarding Environmental Health, which includes hazardous material incident response services, and has the responsibility to implement the Act where applicable.

During the course of these incidents, if the local law enforcement agency suspects the manufacturing or storage of illegal hazardous substances, or hazardous chemicals used in the manufacturing and storage of illegal hazardous substances, including, but not limited to, methamphetamine or opioids,

they will request assistance from Environmental Management's Hazmat Response Team to first determine if the environment is safe for them to conduct an investigation. The Hazmat Response Team will identify any chemicals and procedures used in the potential manufacturing and processing of illegal hazardous substances. The Hazmat Response Team will inspect any structures, vehicles, and adjacent areas for residual chemical releases and contamination resulting from the manufacturing and processing. If the Hazmat Response Team determines the property to be contaminated during the course of its investigation, Environmental Management, acting as the local jurisdiction CUPA, is required to within ten (10) business days of the initial response, take action as specified in California Health and Safety Code section 25400.22, which includes placing and recording a lien on the property in an amount which shall be the greater of \$200 or the costs incurred by the local jurisdiction in compliance with the requirements set forth in the Methamphetamine Contaminated Property Cleanup Act of 2005 and Assembly Bill 1596, including any future amendments which may include additional identified illegal substances.

Environmental Management, acting as the local jurisdiction CUPA, is recommending that the Board authorize by Resolution the ability for Environmental Management to recoup costs incurred during the performance of investigations of properties determined to be contaminated as a result of manufacturing and processing of illegal hazardous substances, as well continue to maintain compliance with the Methamphetamine Contaminated Property Cleanup Act of 2005, including any future amendments. Environmental Management will continue to provide these hazmat incident response services for illegal hazardous substance and clandestine drug laboratories to ensure the public's safety.

ALTERNATIVES

The Board may choose to not approve the proposed Resolution. This would result in Environmental Management failing to comply with California Health and Safety Code section 25400.22 as well as the inability to recover costs as outlined.

PRIOR BOARD ACTION

N/A

OTHER DEPARTMENT / AGENCY INVOLVEMENT

County Counsel has reviewed the proposed Resolution.

CAO RECOMMENDATION

It is recommended that the Board approve this item.

FINANCIAL IMPACT

There is no change in Net County Costs associated with this item. Potential partial cost recovery for the County Service Area No. 10 funds exists for instances in which these services are performed and the requirements of California Health and Safety Code section 25400.22 are determined to be applicable.

CLERK OF THE BOARD FOLLOW UP ACTIONS

- 1) The Clerk of the Board will obtain the Chair's signature on the original Resolution.
- 2) The Clerk of the Board will forward a copy of the fully-executed Resolution to Environmental Management for further processing.

STRATEGIC PLAN COMPONENT

Public Safety and Healthy Communities

CONTACT

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Environmental Management Department