

# **Ventura County Grand Jury 2013 - 2014**



## **Final Report**

### **Temporary Food Facilities in Ventura County**

**April 18, 2014**

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## **Temporary Food Facilities in Ventura County**

### **Summary**

The 2013-2014 Ventura County Grand Jury (Grand Jury) initiated an investigation into the methods and procedures for providing inspections and permits for Temporary Food Facilities (TFF). This investigation is based on an Environmental Health Division (EHD) report presented to the Ventura County Board of Supervisors (BOS) in May 2013.

The purpose of the Temporary Food Facilities Program (Program) is to regulate the permitting of food operations at Community Events (CE) and certified farmers' markets throughout Ventura County (County). The EHD first evaluates events to determine if they meet the California Retail Food Code's (Code) definition of a CE. The EHD then determines what requirements apply to the event and ensures that all paperwork is submitted and that all vendors/operators are prepared to operate as required in order to serve food in a safe and sanitary manner.

The EHD offers a monthly TFF class that is designed to inform prospective operators and organizers about the potential safety hazards and the EHD requirements for operation. Organizers and operators who take this class are given waivers or reductions of permit fees. The desired result of the class is to reduce chances of food-borne illnesses.

The Grand Jury is concerned with the disparity between the rise in the number of organized events in the County and the number of staff to cover inspections of these events. In the past five years, the public's desire to attend fun, family-oriented events as a lower cost alternative to vacations has increased. This increase has not been met with an increase in the number of EHD staff to inspect the TFFs. The insufficient number of inspectors led to eliminating inspections of TFF-Type 2 (prepackaged, less hazardous foods) operators.

The Grand Jury interviewed EHD staff and County Fair operators, attended an EHD food handling class, attended a Food Truck start-up and event organizer seminar, and researched and perused newspaper articles and various websites to obtain a more thorough knowledge of the workings of the Program.

The Grand Jury found that:

- The Program portion of the EHD has been operating with a significant loss of revenues;
- The EHD has created a condition for possible safety hazards by eliminating inspections of TFF-Type 2 operators;
- The food handling classes are not making the operators more compliant with the Code;
- The online class content is not adequately kept current; and
- Allowing Mobile Food Facilities (MFF) to operate as TFFs is not conducive to harmonious relations with qualified, permitted MFFs.

The Grand Jury recommends that the BOS eliminate the policy of fee reductions and the total waiver of fees for food operator permits; this would significantly add revenues to the EHD operating funds. These added revenues would allow the EHD to hire additional full-time inspectors to facilitate inspections of all food handling operations, develop time-saving computer programs that can efficiently track the permit process, and develop more comprehensive food handling classes. These steps would help to assure the public of continued safety even in an environment of increased TFFs and CEs.

## **Background**

A BOS meeting on May 14, 2013, prompted interest in the operations of the EHD in the area of TFFs. A particular statement made during a presentation of an agenda item in the meeting was that the number of CEs was increasing, but that the reductions and waivers of fees were going to continue. This disparity seemed to indicate a problem might exist. Consequently, in July 2013, the Grand Jury began its investigation of the Temporary Food Facilities in Ventura County. [Ref-01]

In 2012, the Program staffing reached a critical point. Normally, there are two full-time and two part-time CE inspectors to cover weekend CEs. The Program was reduced to one full-time inspector and one part-time inspector. The Program experienced a rise in TFFs operating at CEs in the County from about 400 in 2001 to 2,167 in 2012. The Program found it necessary to rely on on-call staff (inspectors who usually cover only the weekend restaurant inspections) to cover the increase. If there are any of the Program inspectors or on-call inspectors out for any reason, a scheduling crisis occurs. [Ref-02]

The Program is classified into the following two food categories. The TFF Type-1 category handles food prepared on-site and could be more subject to safety hazards. The TFF Type-2 category handles prepackaged food that presents less of a safety hazard. [Ref-03]

The EHD found that there were not enough inspectors to cover the increased CEs. The solution to the situation was to eliminate inspections of low risk, TFF Type-2, operators. TFF Type-2, prepackaged, nonpotentially hazardous food only, operators were not required to have an inspection upon submission of their application nor would they receive routine inspections. [Ref-02, Ref-03]

There is a problem that exists where the public does not receive pertinent knowledge of the requirements that the Code has established within the County. In 2012, ten notices of violations were issued by the EHD and were discovered primarily through the *Ventura County Star* or other community publications. [Ref-02]

The Program also experienced challenges determining the difference between profit and nonprofit and between public and private community organizers. Eliminating these differences, for permitting purposes, would solve many issues.

## **Methodology**

The Grand Jury reviewed application forms with respect to various requirements necessary to obtain an operating permit.

The Grand Jury interviewed various EHD staff members to obtain more details of the inspection process.

The Grand Jury attended the EHD Food Handling Training Class and a food trucks seminar to obtain information of the prescribed methods of following established standards for handling TFF Type-1, limited on-site food preparation, and TFF Type-2, prepackaged food not prepared on site. [Ref-03]

The Grand Jury interviewed various TFF operators and CE organizers for information concerning the inspection and permit processes.

The Grand Jury examined and analyzed newspaper articles and websites for more information about TFFs. [Ref-04, Ref-05, Ref-06]

## **Facts**

- FA-01.** No significant food-borne illness outbreaks or significant enforcement activities concerning Temporary Food Facilities have occurred at CEs in the County over the past 12 years. [Ref-01]
- FA-02.** The Code defines a CE as: *"An event that is of civic, political, public, or educational nature, including state and county fairs, city festivals, circuses, and other public gathering events approved by the Local Enforcement Agency."* [Ref-01, Ref-07]
- FA-03.** The EHD is responsible for issuing health permits to CE organizers and TFF operators. [Ref-01]
- FA-04.** The Code defines a TFF as: *"A food facility approved by the enforcement officer that operates at a fixed location for the duration of an approved CE or at a swap meet, only as part of the CE or swap meet."* [Ref-01, Ref-07]
- FA-05.** The EHD is responsible for conducting inspections of CEs to ensure that State of California safe food handling standards are being met. [Ref-02]
- FA-06.** A significant increase in the number of CEs has resulted in an increase in demands for TFF permits. [Ref-02]
- FA-07.** Increased CEs, along with waivers and reduction of permit fees for event organizers and TFFs authorized by the Board of Supervisors, has presented challenges to maintaining regulatory oversight of the TFFs operating at CEs. [Ref-01]
- FA-08.** The number of EHD inspecting staff in 2001 was two people; since 2012, the total staff has undergone some minor changes but the number of inspecting staff remains the same.

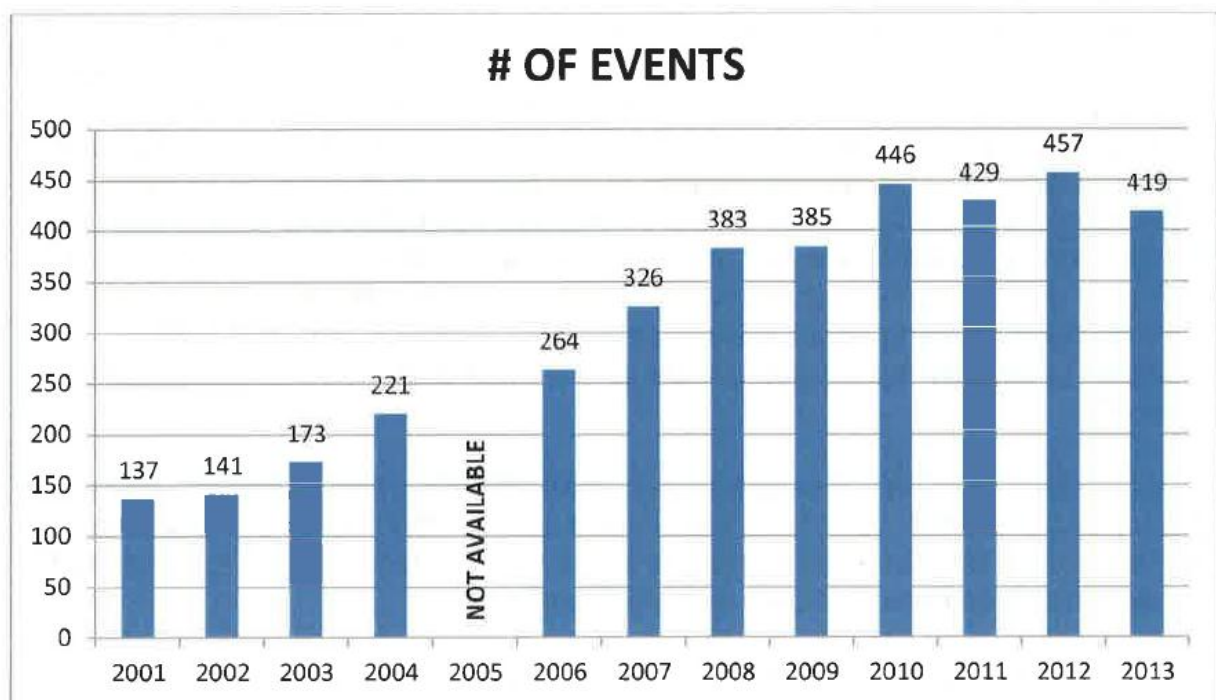
- FA-09.** The growth of the “Gourmet Food Truck” industry has raised significant questions related to the types of permits the EHD issues to MFFs operating in the County.
- FA-10.** The designation of a CE by a local jurisdiction will be recognized by the County as a CE. [Ref-01]
- FA-11.** The Code does not differentiate between events hosted by nonprofit or for-profit organizers. [Ref-01]
- FA-12.** The Code does not specify whether the CEs can be held on private or public property. [Ref-01]
- FA-13.** One pertinent criterion in the Code for CEs is that they must be of a “civic, political, public, or educational nature.” [Ref-01]
- FA-14.** The Code allows TFFs to operate only at CEs, and further limits nonprofit charitable TFFs to operate at no more than four events per year. [Ref-01]
- FA-15.** The Code identifies “circuses, state and county fairs, city festivals, swap meets, and certified farmers markets” as CEs. [Ref-01]
- FA-16.** Events that do not meet the “civic, political, public, or educational nature” would not be considered CEs. [Ref-01]
- FA-17.** Prepared food can be available to the public from MFFs with valid annual permits from the EHD even if a TFF is not allowed at that event. [Ref-01]
- FA-18.** In Fiscal Year (FY) 2001-2002, the BOS authorized the EHD to waive the entire permit fee for nonprofit TFFs and organizers or provide a 50% fee reduction to any for-profit organizers and TFFs, provided they complete an annual Food Handling Training Class offered by the EHD. [Ref-01]
- FA-19.** The following chart shows the effect of waivers and reductions as the difference between permit fees generated and fees collected:

Year	Fees Generated	Fees Waived or Reduced	Fees Collected
2012	\$264,651	\$180,263	\$84,388
2013	\$424,838	\$295,123	\$129,715

[Ref-01, Ref-02, Ref-08]

- FA-20.** After successfully completing the Food Handling Training Class, many operators failed to comply with minimum Code requirements during set-up and operation of their TFFs. [Ref-02]
- FA-21.** The Food Handling Training Class was originally based on Centers for Disease Control criteria. From the beginning of the training until this investigation, the EHD has made changes to the classes as to how the material is presented to organizers and operators. These changes have hindered a smooth flow of the learning process.

- FA-22.** Operators and organizers can take an online refresher class to renew their Food Handling Training Certificate.
- FA-23.** The online Food Handling Training Class is not significantly updated to provide all the latest information for CE organizers and TFF operators.
- FA-24.** The current three-hour Food Handling Training Class is designed for both CE organizers and TFF operators combined.
- FA-25.** The expected outcome of the food handling training classes was for better trained operators who would require less oversight. The inspections of food handling certificated operators did not diminish. A significant number of these operators are still noncompliant with Code requirements.
- FA-26.** During 2012, the EHD issued ten Notices of Violation for not submitting applications prior to their events to CE organizers or TFF operators; these events were found primarily through the *Ventura County Star* or other community publications. [Ref-02]
- FA-27.** The following chart shows the increase of the numbers of CEs conducted in the County:



[Ref-01, Ref-02, Ref-08]

- FA-28.** In 2001, the EHD was able to provide training, inspect all TFFs operating at CEs, and absorb the cost without significantly impacting its overall Program. [Ref-01]
- FA-29.** In 2012, the EHD was not able to absorb the added cost of the increased number of inspections. This led to elimination of TFF Type-2 inspections.

- FA-30.** Valuable time is consumed when EHD staff must verify the nonprofit status and location of a CE. [Ref-01, Ref-02]
- FA-31.** The majority of the CEs take place on the weekends or after hours. [Ref-02]
- FA-32.** The added number of CE inspections made it necessary to bring in weekend inspectors from a different section (restaurant inspectors) into the TFF program to conduct CE inspections. [Ref-02]
- FA-33.** Since FY 2001-2002, cost recovery for the TFF waiver and fee reduction policy authorized by BOS has been accomplished through fee averaging of all EHD fees in the Program (restaurants and TFFs). [Ref-01]
- FA-34.** The Community Services Fee Resolution (approved May 21, 2013,) provides for a 4% fee increase for all EHD food facility permit fees, including TFF fees. [Ref-01]
- FA-35.** The 4% fee increase has no effect on the TFF fee waiver program except that the amount of fees waived or reduced has increased.
- FA-36.** The EHD has redirected its focus of periodic inspections to concentrate on the TFF Type-1 operators. These operators present the greatest potential for the transmission of food-borne illnesses based on the types of potentially hazardous foods. [Ref-01, Ref-02]
- FA-37.** Compliance issues with TFF operators who have previously operated at County CEs are fewer than issues with TFF operators who have never operated in the County. [Ref-02]
- FA-38.** The CE organizers who take the Food Handling Training Class do not always pass the Code requirements to the TFF operators.
- FA-39.** The TFF Type-2 operators that sell prepackaged, nonpotentially hazardous foods no longer receive inspections. [Ref-02]
- FA-40.** In recent years, the Gourmet Food Truck industry was launched in Southern California. [Ref-02]
- FA-41.** County CE organizers invite MFFs from Los Angeles County (LA County) to participate in their events. [Ref-02, Ref-05]
- FA-42.** The Code defines an MFF as: *"Any vehicle used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed retail. A mobile food facility does not include a transporter used to transport packaged food from a food facility, or other approved source to the consumer."* [Ref-01]
- FA-43.** Many MFFs from LA County are older vehicles that do not meet current Code requirements. [Ref-02]
- FA-44.** EHD has accommodated CE organizers by allowing MFFs to operate as TFFs only at CEs. [Ref-01, Ref-02]



- FA-45.** The MFF-to-TFF accommodation has created an “uneven playing field” because MFFs pay higher fees and are more regulated than TFFs. [Ref-01]
- FA-46.** The BOS authorized a one-year grace period in which non-Code conforming MFFs are allowed to operate as TFFs to give them time to meet Code requirements as a MFF. That grace period ends July 1, 2014. [Ref-01, Ref-02]
- FA-47.** The issue of MFFs operating as TFFs in the County will need to be addressed before or on July 1, 2014, when the grace period runs out for them to operate as TFFs.

## **Findings**

- FI-01.** The TFF program has been operating at a significant loss of revenues for the past several years. (FA-07, FA-18, FA-19, FA-29)
- FI-02.** The Food Handling Training Classes have not resulted in TFF operators who are more compliant with the Code. (FA-20, FA-25)
- FI-03.** The online certificate renewal training classes have not been adequately updated to reflect current operating procedures. (FA-22, FA-23)
- FI-04.** Creating two separate food handling classes, one for TFF operators and one for CE organizers, will make the training more relevant to each group. (FA-24)
- FI-05.** The EHD has reduced inspections of some food handling operators in the County, possibly allowing for potentially unsafe conditions. (FA-29, FA-36)
- FI-06.** The EHD was not able to conduct inspections on all TFFs because the EHD had insufficient staff complement, possibly allowing for potentially unsafe conditions. (FA-08)
- FI-07.** MFFs operating as TFFs have created a conflict with the previously permitted MFFs, because the MFFs must pay more for permits than TFFs operating under fewer requirements. (FA-44, FA-45, FA-46, FA-47)
- FI-08.** The blurred lines between public and private CEs and profit and nonprofit CEs make it difficult for the EHD to distinguish the differences; therefore, more time is required for the permitting process. (FA-11, FA-12)
- FI-09.** Processing returning, experienced, compliant CE organizers as “Preferred Organizers” would require less time and energy to process their permits and inspections; a minimized process would free up inspectors’ time. (FA-37)

## **Recommendations**

- R-01.** The Grand Jury recommends that EHD require every CE organizer and TFF operator to take the Food Handling Training Class in the classroom every two years. (FI-02, FI-03)
- R-02.** The Grand Jury recommends that the EHD offer separate food handling classes to:
- CE organizers
  - TFF operators
  - Certified farmers' market manager/employees, and certified producers
  - TFF operators at farmers' markets.
- (FI-04)
- R-03.** The Grand Jury recommends that the EHD format the Food Handling Training Classes to follow the importance of Centers for Disease Control criteria:
- Improper holding temperatures
  - Poor personal hygiene
  - Cross-contamination
  - Inadequate cooking
  - Food from unsafe sources
- (FI-02, FI-04)
- R-04.** The Grand Jury recommends that the EHD minimize the application process for well-established organizers by designating them as "Preferred Organizers," to facilitate a less time-consuming process. (FI-09)
- R-05.** The Grand Jury recommends that the EHD not allow MFFs operating in the County to operate as TFFs if they don't meet the requirements of an MFF. (FI-07, FI-08)
- R-06.** The Grand Jury recommends that the EHD hire additional full-time staff in order to better handle the increase in CEs. (FI-01, FI-06)
- R-07.** The Grand Jury recommends that the BOS terminate the policy that offers any waivers or reductions in permit fees. (FI-01)
- R-08.** The Grand Jury recommends that the EHD eliminate the distinctions between profit and nonprofit events in the permit policy. (FI-08)
- R-09.** The Grand Jury recommends that the EHD eliminate the distinctions between private and public land locations in the permit policy. (FI-08)
- R-10.** The Grand Jury recommends that the EHD issue annual permits for TFF Type-2 operators. (FI-08, FI-09)
- R-11.** The Grand Jury recommends that the EHD suspend permits of TFF operators who do not comply with the Code. (FI-02, FI-06)

- R-12.** The Grand Jury recommends that the EHD conduct at least one inspection semi-annually, whether random or routine, on all TFFs to ensure that the food that is sold is as indicated on the permit application. (FI-02, FI-03, FI-05, FI-06)

## **Responses**

### Responses required from:

County of Ventura, Board of Supervisors (FI-01, FI-06, FI-08) (R-06, R-07, R-08)

### Responses requested from:

County of Ventura, Resource Management Agency, Environmental Health Division (FI-01, FI-02, FI-03, FI-04, FI-05, FI-06, FI-07, FI-08, FI-09) (R-01, R-02, R-03, R-04, R-05, R-06, R-07, R-08, R-09, R-10, R-11, R-12)

## **References**

- Ref-01.** Ventura County Resource Management Agency, Environmental Health Division. Presentation to the Ventura County Board of Supervisors. May 14, 2013.
- Ref-02.** Ventura County Resource Management Agency, Environmental Health Division. *2012 Temporary Food Program Report*. January 23, 2013.
- Ref-03.** Ventura County Resource Management Agency, Environmental Health Division. *Temporary Food Facility Training Syllabus*. September 4, 2013
- Ref-04.** Letzer, Jennifer. "Food booth increase changes policies." *Ventura County Star*, October 6, 2013, West County, Section B.
- Ref-05.** McKinnon, Lisa. "Food truck events on the rise." *Ventura County Star*, October 3, 2013, Local, Section B.
- Ref-06.** Martinez, Arlene. "Ventura Movement Supports Brakes On Food Trucks." *Ventura County Star (Ventura Extra)*. October 4, 2013.
- Ref-07.** State of California, Department of Food and Agriculture. *California Retail Food Code*. Chapter 2, Definitions, Sections 113728 through 113941; and Temporary Food Facilities, Sections 114335 through 114363. Effective January 1, 2012.
- Ref-08.** Ventura County Resource Management Agency, Environmental Health Division. *2013 Temporary Food Program Report*. February 19, 2014.

## **Glossary**

<b><u>TERM</u></b>	<b><u>DEFINITION</u></b>
BOS	Ventura County Board of Supervisors
CDC	Centers for Disease Control, a federal organization with offices across the country
CE	Community Event
Code	California Code Part 7, California Retail Food Code 113700-114437
County	Ventura County
EHD	Ventura County Environmental Health Division
FY	Fiscal Year
Gourmet Food Truck	MFF trucks that serve specialty foods
Grand Jury	2013-2014 Ventura County Grand Jury
LA County	Los Angeles County
MFF	Mobile Food Facilities
On-call staff	Inspectors normally assigned to cover weekend inspections of restaurants in the County
Program	Temporary Food Program
TFF	Temporary Food Facilities
TFF-Type 1	Food facilities that handle food prepared on site
TFF-Type 2	Food facilities that handle prepackaged, nonpotentially hazardous food.