

DATE: June 03, 2019

TO: Board of Supervisors’ Transportation/Planning Committee

FROM: Ronald Browder, Director, Department of Environmental Health

SUBJECT: Review and Approval Process for the various programs in the Department of Environmental Health

BACKGROUND

The Alameda County Department of Environmental Health (DEH, the Department) has regulatory jurisdiction over several categories of environmental health programs that require project plan review and approval for compliance with, and in some cases, a combination of local, state and federal laws.

In addition to reviewing applications for new food, recreational, medical and hazardous material/waste generating businesses, DEH has enforcement responsibilities over existing facilities, business operations and contaminated properties that may require plan submittals for review, approval and compliance.

Depending on the type and complexity of a project, the plan approval timeline can range from days to years for an overall process. Required clearances and/or approvals from other entities and involved governmental agencies, inside and external to the County, may impact the timeline for processing as well.

Several years ago, DEH began implementing department-wide program-level changes in response to the significant changes in state and federal requirements, increased enforcement, retirements of experienced staff and workload increases for all department programs. Implementation of changes will be ongoing as the Department continues to adjust and adapt during this transitional period.

Project Plan Review Staff per Program

Program	# Plan Review Staff
Food & Recreation	7
CUPA	3
Solid/Medical Waste/Body Arts	3
LOP	4
Land Use	2

DISCUSSION

DEPARTMENT OF ENVIRONMENTAL HEALTH LAND/WATER DIVISION

LOCAL OVERSIGHT PROGRAM (LOP)

Alameda County DEH is required to respond to submittals within sixty (60) days from the date of submittal, as required in the California Code of Regulations (CCR), Title 23, Division 3, Chapter 16, Section 2722(e), and the California Health and Safety Code (H&SC) 25296.10 (c)(4).

CCR, Title 23, Division 3, Chapter 16, Section 2722 (e)	In the interest of minimizing environmental contamination and promoting cleanup, the responsible party may begin implementation of the proposed actions after the workplan has been submitted and before it has received agency concurrence. Implementation of the workplan may begin sixty (60) days after submittal, unless the responsible party is otherwise directed in writing by the regulatory agency. Before beginning these activities, the responsible party shall: <ol style="list-style-type: none">1) notify the regulatory agency of the intent to initiate the proposed actions included in the workplan submitted; and2) comply with any conditions set by the regulatory agency, including mitigation of adverse consequences from cleanup activities.
H&SC Section 25296.10(c)(4)	In the interests of minimizing environmental contamination and promoting prompt cleanup, the responsible party may begin implementation of the proposed action after the work plan has been submitted but before the work plan has received regulatory agency acceptance, except that implementation of the work plan may not begin until 60 calendar days from the date of submittal, unless the responsible party is otherwise directed in writing by the regulatory agency. However, before beginning implementation pursuant to this paragraph, the responsible party shall notify the regulatory agency of the intent to initiate proposed actions set forth in the submitted work plan.

In accordance with the above-cited regulations, Alameda County’s Local Oversight Program (LOP) reviews submittals and provides comment, conditional approval or general approval of the proposed scope of work within sixty (60) days of receipt.

All Leaking Underground Storage Tank (LUST) Cleanup sites are evaluated for closure in accordance with the State Water Resources Control Board’s Low-Threat Underground Storage Tank Case Closure Policy (LTCP), which applies to all petroleum underground storage tank sites, subject to Chapter 6.7 of Division 20 of the California Health and Safety Code, and Chapter 16 of Title 23 of the California Code of Regulations. This policy became effective August 17, 2012.

In general, the Site Cleanup Program (SCP) cases are evaluated for risk to human health and the environment in accordance with the San Francisco Regional Water Quality Control Board’s 2019 Environmental Screening Levels (ESLs). ESLs address a range of media (soil, groundwater, soil gas, and

indoor air) and a range of concerns (e.g. impacts to drinking water, vapor intrusion to indoor air and aquatic habitat impacts) and are intended to be protective of human health and the environment.

Since 2012, the LOP has responded to 242 requests for closure for LUST cleanup sites, with 12 responses beyond 60-days (95% in compliance).

Since 2012, the LOP has responded to 534 workplan submittals for LUST Cleanup Sites, with 27 responses beyond 60-days (95% in compliance).

LUST Cleanup Site oversight costs are funded by a grant from the State Water Resources Control Board. The Site Cleanup Program is a voluntary program for property owners to obtain guidance and oversight for environmental cleanup and case oversight costs are funded by the responsible party.

LEGEND FOR LOP CASE INVENTORY & RESPONSE TIME

PROJECT TYPE	FULL NAME
LUST	Leaking Underground Storage Tank
RP	Responsible Party
NEXT REG RESPONSE DUE	Next Regulatory Agency Response Due Date
LAST REG RESPONSE	Last Regulatory Agency Response Date
PAST DUE REG RESPONSE	Past Regulatory Agency Response Date
PAST DUE COMPLIANCE	Number of Times RP Compliance is Past Due
NEXT RP COMPLIANCE	Next Responsible Party Compliance Submittal Description
RP DUE DATE	Responsible Party Submittal Due Date
PENDING ESI	Pending Electronic Submittal of Information for Agency Review
LTCP INITIATED	Low-Threat Closure Policy Review Initiated
LTCP COMPLETED	Low-Threat Closure Policy Review Completed
PTCP INITIATED	Path to Closure Plan Review Initiated
PTCP COMPLETED	Path to Closure Plan Review Completed
PROJECTED CLOSURE DATE	Projected Case Closure Date
PRIORITY	Priority for Cases w/ Imminent Risk to Human Health or Environment

LAND USE PROGRAM

The Land Use Program reviews and approves plans submitted for private and commercial, new and existing onsite wastewater treatment systems (OWTS) that are in Unincorporated Alameda County and in other areas of the County where municipal sanitary sewer may not be available (Oakland Hills). Plans submitted for properties that require an onsite wastewater containment unit (OWCU) are also reviewed and approved. Certification of drinking water well systems and Liquid Waste Pumpers may also fall under the oversight of the Land Use program.

The final Local Agency Management Program (LAMP) was approved by the Alameda County Board of Supervisors, the California State Water Resources Control Board (SWRCB) and the San Francisco Regional Water Quality Control Board (SFRWQCB) on June 05, 2018. The authority to implement the LAMP (Management Program, Ordinance and Technical Manual) is provided in Chapter 15.18 of the Alameda County General Ordinance Code.

Depending on the type of project, other local, regional, state and federal regulatory agencies may be involved in the approval process. Continual interagency coordination is required throughout the review and approval process and project submitters are encouraged to engage with the other agencies early in the project planning process. Some of the other involved agencies include:

- **ALAMEDA COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT**
- **ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY**
- **ALAMEDA COUNTY PUBLIC WORKS AGENCY**
- **ALAMEDA COUNTY WATER DISTRICT**
- **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (REGION 9)**
- **UNITED STATES ARMY CORPS OF ENGINEERS**
- **UNITED STATES FISH & WILDLIFE SERVICE**

After the LAMP was approved and implemented across project plans, project review times steadily decreased, and the number of projects began to increase. This can be attributed to program staff working directly with consultants during the development of the LAMP and providing technical assistance on submitting more complete and accurate plans. In addition, the Technical Manual provides standardized approaches designed to mitigate issues specific to a project or property, enabling consultants to submit plans that take less time to review and approve. Streamlining of the review process, additional site visits and meetings with consultants have also helped to bring clarity to certain issues and reduce review times. DEH continues to work with property owners and their consultants to improve the quality and timeliness of submittals.

LAND USE PROGRAM PROJECT REVIEW SUMMARY

PROJECT (CITY)	# SUBMITTED in 2017	# SUBMITTED in 2018	# SUBMITTED as of May 2019	#Pending Approval
Castro Valley	10	8	15	6
Livermore	25	23	18	8
Sunol	20	17	20	3
Hayward	7	16	6	2
Pleasanton	3	7	1	2
Fremont	0	1	3	1
Mountain House	0	4	1	1
Oakland	0	0	2	2
Tracy	0	0	1	
TOTAL	65	76	67	25
		17% increase from 2016	On pace for 60% increase from 2018	

SITE VISITS				
Soil Profiles, Site Evaluations	-	36	20	
Construction Inspections	-	50	30	
Complaints	-	15	8	
TOTAL	-	101	58	
STAKEHOLDER MEETINGS	-	50	30	

DEPARTMENT OF ENVIRONMENTAL HEALTH HAZARDOUS MATERIALS DIVISION

CERTIFIED UNIFIED PROGRAM AGENCY (CUPA)

The Alameda County Certified Unified Program Agency (CUPA) programs review and approve plans for underground storage tank (UST) systems, hazardous materials handling and hazardous waste generating businesses. Recent additions to CUPA program oversight include aboveground storage tanks and storage tanks in underground areas.

The CUPA program has jurisdiction in the cities of Alameda, Albany, Castro Valley, Dublin, Emeryville, Newark, Oakland (2016), Piedmont, San Lorenzo, Sunol; the unincorporated areas of Fremont, Hayward, Livermore, Pleasanton, and San Leandro; and parts of Byron, Mountain House and Tracy. The CUPA program operates under the California Health & Safety Code. Relevant agencies include:

- **California Environmental Protection Agency (CALEPA)**
- **Department of Toxic Substance Control (DTSC)**
- **Alameda County Water District (ACWD)**
- **Alameda County Fire**
- **All ALCO City Fire Departments**

CUPA construction permits related to underground storage tank systems are categorized as:

- Minor Modification - small repairs such as replacing sensors, restarting a system after a power loss or replacing a spill bucket in a sump.
- Major Modification – more complex modifications to the system including repairs to piping, transitioning the tank from one product to another, upgrading equipment and adding new equipment.
- System Closure – closing out and removal of an UST system.
- New Install – installation of a completely new UST system.

In addition, CUPA reviews, approves and provides oversight of clean-up work plans for public and private properties used as labs and contaminated by the illegal production of methamphetamines. Recent changes in law have now included illegal Fentanyl lab cleanup.

Type of Project	Submittal to Approval		Approval to Completion/Closed Out		Service Request Open	
	Range (days)	Average (days)	Range (days)	Average (days)	Range (days)	Average (days)
Minor Modification	1-1368	72	1-425	64	0-612	132
Major Modification	6-520	119	0-614	176	44-561	326
System Installation	260-1414	808	-	-	379-624	497
System Closeout	1-200	33	211-508	337	44-561	226

**DEPARTMENT OF ENVIRONMENTAL HEALTH ENVIRONMENTAL PROTECTION DIVISION
SOLID WASTE PROGRAM**

The Solid Waste program reviews and approves structural and operational plans for:

- Landfills Sites
- Transfer Station Facility
- Construction, Demolition & Inert Debris Operation
- Closed Landfills (Post-closure Land-use)
- Chip and Grinding Operation
- Inert Debris Fill Operation
- Composting Facility
- Recycling Facility
- Solid Waste Collection Vehicle

The DEH is the Local Enforcement Agency (LEA) for the California Department of Resources, Recycling and Recovery (CalRecycle) with jurisdiction for regulating the solid waste program throughout Alameda County. Other relevant regulatory agencies and codes that impact permitting and enforcement of solid waste facilities and operations include:

- California Water Resources Control Board (Water Board)
- California Code of Regulations, Division 30, Part 1
- Alameda County Code of Ordinances, chapter 6.76
- California Integrated Waste Management Board (CIWMB)
- California Air Resources Board (Air Board)

The following table illustrates the LEA full permit process and associated timelines.

LEA Full Permit Process Tasks	Timelines (Calendar Days)	
<ul style="list-style-type: none"> Provide guidance to applicant and local planning agencies on permit process, local land use permits and the California Environmental Quality Act (CEQA). 	Prior to submittal of application	
<ul style="list-style-type: none"> Receive permit application package from operator at least 180 days prior to implementing proposed changes per PRC Section 44004(b). 	30 Days to accept or reject application package	60 Days to hold informational meeting for revised and new permits.
<ul style="list-style-type: none"> Review application package for completeness and correctness. Accept or reject application package for filing Accept application package as incomplete per Title 27 Section 21650(e). Determine if proposed changes in design or operation will be processed as a permit revision, permit modification or RFI amendment. 		
<ul style="list-style-type: none"> Notice and conduct informational meeting for new and revised permits only. Notify CalRecycle of proposed determination and submit to CalRecycle for comment. 	<p>Note 1: For new and revised full permits, the LEA must hold an informational meeting within 60 days of receiving an application, in addition to making a completeness determination within 30 days.</p> <p>Note 2: The informational meeting must be held after the LEA has made its' completeness determination.</p> <p>Note 3: Modified permits require the LEA to notice the LEA's preliminary determination to modify the permit.</p> <p>Note 4: For new and revised full permit applications, the LEA is required to notice the governing body of the local jurisdiction where the facility is located and the appropriate State Assembly Member and State Senator of</p>	
<ul style="list-style-type: none"> Inform operator of LEA determination to do any of the following per PRC Section 44004(d): <ol style="list-style-type: none"> Allow the change without a revision to the permit. Disallow the change because it does not conform with the requirements or the regulations adopted pursuant to this division. Require a revision of the solid waste facilities permit to allow the change. Require a modification of the permit to allow the change. Require a review under Division 13 (Section 21000) before a decision is made (CEQA). Forward final determination to CalRecycle. 		

	an upcoming informational meeting.	
<ul style="list-style-type: none"> • Write proposed permit (may also submit draft permit for CalRecycle review). • Submit proposed (unsigned) permit package and accepted application package to CalRecycle. 	60 days Title 27 Section 21650 (f)	120 days PRC Section 44008
<ul style="list-style-type: none"> • Assist CalRecycle staff with agenda item. • Accompany CalRecycle staff on pre-permit inspection • Attend CalRecycle public meeting 	CalRecycle has 60 days to concur or object PRC Section 44009.	
<ul style="list-style-type: none"> • Issue or deny permit per PRC section 44007. 		

The DEH Solid Waste program is challenged to keep up with the increasing demands of the program, stemming from the following regulatory changes and recycling trends:

- a. Due to changes in regulations and impacts of international policies affecting global recycling commodity markets, the LEA has received a significant number of permit applications for active solid waste operations and facilities. The range of applications cover new facilities, revised permits, facility amendments, notifications, and registrations up to full permits.
- b. Other agencies now require local quarry operators to seek regulatory exemptions from the LEA as Inert Debris Recycling Operations.
- c. Sites that were once considered as recycling centers are now being evaluated, inspected and permitted, when required, as solid waste operations or facilities.
- d. Cal-EPA's multi-agency Environmental Justice (EJ) projects in disadvantaged communities have demanded a significant amount of DEH staff time from the LEA over the last year or so. The LEA has been working with CalRecycle and many other regulatory agencies and local community members to address public health, safety and the local environment. The [report](#) for Oakland was released last summer.
- e. With the increased demand for vacant land in the Bay area for housing developments, solar farms, parks, etc., proposed use of former landfills is increasing and requires submission of post-closure land use applications. Many operators and property owners are unaware of post-closure regulations, which can be complicated. Required enforcement activities are time-consuming as well.

MEDICAL WASTE PROGRAM

The DEH Medical Waste program has jurisdiction throughout Alameda County and is authorized to regulate facilities and conduct enforcement under the California Health & Safety Code, Medical Waste Management Act. There are no regulatory review and approval timeline requirements for the LEA to respond to permitting or registration requests. The LEA inspects and conducts enforcement, when necessary, of facility operations to ensure medical waste is packaged, labeled, stored and disposed of properly to protect the public and the environment. The LEA also reviews and approves home-generated pharmaceutical and sharps waste disposal plans. The LEA routinely conduct surveys to ensure any new businesses or new operators are registered with the program. Over the last three years no plan review for new facilities has been required but numerous facility operations within the County have been issued registrations by the program.

BODY ARTS PROGRAM

The DEH Body Arts program is authorized under the Health and Safety Code, Division 104, Part 15, Chapter 7 and has countywide jurisdiction. There are no regulatory review and approval timeline requirements for the LEA to respond to permitting or registration requests. The Body Arts program will also review and approve issuance of permits-to-operate for Body Arts Special Events. Body Arts Practitioner Registration and Facility Permit requirements are cited in Section 119306 and Body Arts Facility Permit Requirements are in Section 119312.

FOOD SAFETY PROGRAM

The DEH Food Safety Program reviews and approves plans for permanent fixed and mobile food facilities and for temporary events throughout Alameda County. The California Health and Safety Code, Division 104, Part 7 provides the regulatory authority to permit and enforce requirements of this chapter. This Part of the Health & Safety Code is called the California Retail Food Code (CalCode).

Chapter 13, Article 1, Section 114380 requires the submittal of complete, easily readable plans drawn to scale with specifications to the Enforcement Agency for review. Approval of the plans is required before starting any construction or remodeling. Plans shall be approved or ejected within 20 working days and the applicant notified. The Building Department shall not issue a building permit for a food facility until after the plans have been approved by the Enforcement Agency.

Types of food facilities include but are not limited to:

- Restaurants, Bars, Coffee Shops and Delis
- Schools and Colleges
- Skilled Nursing Facilities
- Host Facilities, Commissaries and Catering Operations

- Detention Facilities
- Micro-Enterprise Home Kitchen Operations (TBD)

The Alameda County Board of Supervisors approved an “expedited” plan review service for DEH in 2005. Expedited plans receive plan review responses within a shorter period of time (usually within 10 days) than currently required in CalCode. The number of food plans submitted is economy driven but also will increase because of more enforcement activities. DEH makes organizational adjustments as needed to manage the increased workload. Two new Food Safety Program units were formed a year ago to evenly distribute the workloads for better plan review coverage throughout the county.

RECREATION PROGRAM

The DEH Recreation Program reviews and approves plans for public pools and spas and other water activity facilities such as Spray Grounds. In addition, pool and spa permit holders must ensure that the drain covers servicing their facilities are in compliance with the federal Virginia Graeme Baker Act and the California equivalent, AB 1020. DEH enforces this requirement for the safety of all public bathers by reviewing and approving Scope of Works (SOW) submitted by operators and providing oversight of installations. Most drain cover certifications expire within five (5) years on average. It should be noted that VGB/AB1020 requirements also apply to private pool facilities.

The authority to regulate public pools and spa is derived from the:

- California Health and Safety Code
- California Code of Regulations, Title 22 and Title 24
- California Building Code
- California Electrical Code

None of the above-mentioned regulations require compliance to any timeline for plan review. Because of the nature of recreational water facilities, any necessary repairs or required upgrades to existing facilities are public health enforcement issues and must be addressed immediately or no access is allowed.

SUMMARY

Plan review processes and timeline milestones are for the most part, established in specific regulations for environmental health programs except for the Medical Waste and Recreation programs. Compliance and enforcement in those two programs is critical due to the safety requirements and the potential impact on public health and the environment.

All DEH programs strive to promote efficiency, which includes improving plan review procedures and activities. Additional staff are needed in all programs, and for DEH, recruitment is a constant. DEH has been using temporary staff in all programs to fill gaps due to retirements and increased responsibilities in all programs. LOP and Land Use require more staff with related certifications and experience. The Solid Waste program has expanded and requires specialized training to address more complex cases. The Food program had six new food bills passed in 2018 that will require more staff for implementation and enforcement.

Some examples of how DEH is improving plan review through technical assistance, standardization, and training include:

- DEH engages operators to promote knowledge of requirements for more complete applications and plans. Unit 5 of the Food Program holds free Monday morning sessions for prospective food vehicle and temporary event operators.
- CUPA offers free, hands-on training sessions to assist operators with better understanding of requirements and uploading their business plans to the California Environmental Reporting System (CERS). Informed applicants submit better plans for review.
- DEH is in the final processes of unveiling its new website. The site will be easier to navigate, link to updated program information, forms and applications.
- Standardization is key to uniform implementation of requirements, policies and procedures. Due to retirements, the experience level of DEH staff overall has decreased and trainings at all levels are prioritized. Senior staff that conduct plan review activities along with district inspectors are training for a uniform approach.
- All plan review desk and field activities will be coded and uploaded into the DEH EnvisionConnect (EC) database. Plan review activities that may be recorded in handwritten logs are now digitized in EXCEL. Downloading reports from the EC database is quicker, more accurate and timely.

Attachment: Projects Status Data