Report to the Board of Health

To Approve For Expedited Process

Prepared by the Maricopa County Environmental Services Department

Environmental Services Department

Case #/Title: ES-2015-001/30 Day Transition

Meeting Date: April 27, 2015

Supervisor Districts: All Districts

Applicant: Maricopa County Environmental Services Department (Department)

Request: Approve this Maricopa County Environmental Health Code (MCEHC) proposal for the Enhanced Regulatory Outreach Program (EROP) Expedited Process.

Discussion: On June 9, 2014, this regulatory change was suggested by the Ad Hoc Task Force Committee (Committee) and the Board of Supervisors (BOS) voted to accept the Committee's proposal to adopt the 30 day transition. The Committee believes the 30 day transition offers changes that will better serve the industry.

This MCEHC proposal allows new owners of existing food establishments to remain in business for up to 30 days while the permit application review is in progress.

This proposed regulatory change is following the EROP policy and workflow process and no fee changes are requested.

In accordance with the Maricopa County Resolution, "Moratorium on Increased Regulatory Burdens", the County Manager authorized the Department to proceed with this case in July 2014

Support/Opposition: The Department has received no comments on the proposed changes.

No stakeholders attended the March 25, 2015 stakeholder workshop.

Department Recommendation: Approve the request to process Case ES-2015-001 through the EROP Expedited Process.

Per the EROP Policy, Section IV(E), the Expedited Process may only be used if the following criteria have been met:

1. The proposed amendment has been subject to at least one stakeholder workshop (posted on the County's website at

least two weeks in advance) and one Citizens' Board or Commission meeting;

2. A draft of the regulatory change was available on the EROP website at least two weeks prior to the Citizens' Board or Commission meeting and was forwarded to the Board/Commission at least one week in advance of their review meeting;
3. No comments of opposition to the amendment have been received from the public;
4. The Citizens' Board or Commission reviewing the amendment recommends approval.

ES-2015-001/30 Day Transition has met the criteria for the Expedited Process:

1. One stakeholder workshop on March 25, 2015 was held and an announcement was posted on the County's website at least two weeks in advance;
2. A draft of the regulatory change was available on the EROP website at least two weeks prior to the Board of Health (BOH) meeting;
3. No comments of opposition to the MCEHC proposal have been received from the public;
4. The Department is requesting the BOH approve the proposal for the EROP Expedited Process.

Regulatory Process:

In accordance with the Maricopa County Resolution, "Moratorium on Increased Regulatory Burdens," the County Manager authorized the Department to proceed with this case in January 2015. Also, the County Manager briefed the BOS on the proposed changes in January 2015.

If the BOH approves this regulatory change it is anticipated the proposal will be on a BOS public hearing agenda in June 2015. This regulatory change will take immediate effect upon approval by the BOS.

Presented by: **Steven J. Goode, REHS., Director**

Attachments:

County Manager Case Approval (1 Page)
Proposed MCEHC Revision Language (4 Pages)
Presentation – Stakeholder Meeting (3/25/15) – (4 Pages)

Maricopa County

Environmental Services Department

Environmental Services Department

Steven J. Goode, REHS, Director
1001 N. Central Avenue #401
Phoenix, Arizona 85004
Phone: (602) 506-6654
Fax (602) 506-5141
TDD 602 372-0622

Date: January 5, 2015

To: Tom Manos, County Manager

Via: Joy Rich, AICP, Deputy County Manager

From: Steven J. Goode, REHS, Director

Re: **Case ES-2015-001/30 Day Transition**

In accordance with the Maricopa County Resolution, "Moratorium on Increased Regulatory Burdens," the Environmental Services Department (Department) is seeking your approval to proceed with EROP ES-2015-001/30 Day Transition. This proposal qualifies for the County Manager approval under the moratorium, as "To lessen or ease a regulatory burden."

On June 9, 2014, this regulatory change was recommended by the Ad Hoc Task Force Committee (Committee) and the Board of Supervisors voted to accept the Committee's proposal to institute the option for a new owner of an existing food establishment to remain in business for a specified period while the required permits are being obtained. The existing Maricopa County Environmental Health Code (MCEHC) Chapter I, Regulation 5.b. investigation fee would be applied for 30 day transition application processing.

The Department is proposing updates to MCEHC Chapters I and VIII to allow new owners of existing food establishments to remain in business for up to a 30 day transition period provided the new owner actively seeks required Department permits and the Department scheduled application process is in progress.

This proposal is following the EROP policy and workflow process and an existing fee would be utilized.

We are requesting your approval to move this proposed revision forward in accordance with the Maricopa County Resolution, "Moratorium on Increased Regulatory Burdens."

Approved by Tom Manos, County Manager

MARICOPA COUNTY ENVIRONMENTAL HEALTH CODE

CHAPTER I

GENERAL PROVISIONS

REGULATION 1. to REGULATION 3 No Change

.

REGULATION 4. Permits, Service and Other Requirements

a. No person shall conduct an operation or ~~an~~ **OPERATE AN** establishment for which a permit is required without holding the necessary and valid permit to do so**, UNLESS OTHERWISE SPECIFIED IN THIS ENVIRONMENTAL HEALTH CODE.**

b. No Change

c. (1) No application for permit shall receive approval and no permit shall be issued and no facility for which a permit is required shall be placed in operation until the applicant demonstrates to the Department full compliance with the provisions of this Environmental Health Code**, UNLESS OTHERWISE SPECIFIED IN THIS ENVIRONMENTAL HEALTH CODE**.

(2) No Change

d. to j. No Change

REGULATION 5. to REGULATION 14. No Change

MARICOPA COUNTY ENVIRONMENTAL HEALTH CODE

CHAPTER VIII

FOOD, FOOD PRODUCTS, FOOD HANDLING ESTABLISHMENTS

SECTION 1

GENERAL PROVISIONS

REGULATION 1. No Change

REGULATION 2. No Change

REGULATION 3. Permit Required

A. No person shall operate a food establishment without a valid permit **TO OPERATE** from the Department UNLESS: ~~or otherwise than in compliance with the applicable regulations in the Environmental Health Code.~~

(1) THE PERSON IS OPERATING THE FOOD ESTABLISHMENT IN COMPLIANCE WITH SECTION 2, REGULATION 7 OF THIS CHAPTER; OR,

(2) THE FOOD ESTABLISHMENT IS EXEMPT FROM PERMITTING BASED ON THE PROVISIONS IN A.R.S. § 36-136(H)(4).

B. The permit **TO OPERATE** shall be posted in a conspicuous place on the premises of the food establishment.

REGULATION 4. to REGULATION 11. No Change

MARICOPA COUNTY ENVIRONMENTAL HEALTH CODE

CHAPTER VIII

FOOD, FOOD PRODUCTS, FOOD HANDLING ESTABLISHMENTS

SECTION 2

FOOD ESTABLISHMENTS

REGULATION 1. Food Establishments

a. Effective December 10, 2014, the U.S. Food and Drug Administration 2013 Food Code, and no future editions or amendments, is adopted and incorporated by reference, except as follows:

1. Section 3-304.15 is omitted;

2. **PARAGRAPH** ~~Section~~ 3-201.11(B) is amended to read: food prepared in a private home may not be used or offered for human consumption in a food establishment unless the food is prepared in compliance with A.R.S. § 36-136(H)(4)(g).

3. **SECTION 8-301.11 IS AMENDED TO READ: A PERSON MAY NOT OPERATE A FOOD ESTABLISHMENT WITHOUT A VALID PERMIT TO OPERATE ISSUED BY THE REGULATORY AUTHORITY UNLESS THE PERSON IS OPERATING THE FOOD ESTABLISHMENT IN COMPLIANCE WITH REGULATION 7 OF THIS SECTION.**

b. to d. No Change

REGULATION 2. No Change

REGULATION 3. ~~**Permit Required**~~ **RESERVED**

~~No person shall operate a food establishment without a valid permit issued by the Department. The permit shall be posted in a conspicuous place on the premises of the establishment.~~

REGULATION 4. to REGULATION 6 No Change

REGULATION 7. NEW OWNER TRANSITION

THE DEPARTMENT MAY GRANT THE NEW OWNER OF A FOOD ESTABLISHMENT APPROVAL TO OPERATE WITHOUT A PERMIT SO LONG AS THE FOLLOWING REQUIREMENTS ARE MET:

a. **THE NEW OWNER SHALL APPLY AND RECEIVE WRITTEN APPROVAL FROM THE DEPARTMENT PRIOR TO OPERATING.**

b. **THE TIME BETWEEN THE OWNERSHIP CHANGE AND ISSUANCE OF THE REQUIRED PERMIT TO OPERATE SHALL NOT EXCEED 30 DAYS.**

c. **THE PREVIOUS OWNER OF THE FOOD ESTABLISHMENT SHALL HAVE A VALID PERMIT AT THE TIME OF THE OWNERSHIP CHANGE.**

d. **THE NEW OWNER SHALL AGREE TO IMMEDIATELY CEASE OPERATIONS IF ANY OF THE FOLLOWING OCCUR:**

1. **AN IMMINENT HEALTH HAZARD SUCH AS FIRE, FLOOD, ELECTRICAL OR WATER OUTAGE, SEWAGE BACKUP, MISUSE OF POISONOUS OR TOXIC MATERIALS, ONSET OF AN APPARENT FOODBORNE ILLNESS OUTBREAK, GROSS INSANITARY OCCURRENCE OR CONDITION, OR OTHER CIRCUMSTANCE THAT MAY ENDANGER PUBLIC HEALTH.**

2. **EVIDENCE OF LIVE INSECT AND/OR VERMIN ACTIVITY.**

3. **MISSING OR INOPERABLE PLUMBING FIXTURES ESSENTIAL TO FACILITY OPERATIONS, SUCH AS HAND SINKS AND WAREWASHING EQUIPMENT.**

4. **INADEQUATE SUPPLY OF HOT AND COLD WATER.**

5. **INSUFFICIENT, INADEQUATE, OR UNAPPROVED FOOD TEMPERATURE CONTROL EQUIPMENT.**

e. **THE NEW OWNER SHALL NOT CONDUCT ANY FOOD PROCESS WHERE A VARIANCE OR HAACP PLAN IS REQUIRED IN ACCORDANCE WITH THE U.S. FOOD AND DRUG ADMINISTRATION 2013 FOOD CODE §§ 3-502.11, 3-502.12, 8-201.13, 8-201.14 AND SUBPART 8-103 WHICH HAS NOT BEEN ISSUED AND/OR APPROVED BY THE DEPARTMENT.**

f. **THE NEW OWNER SHALL ABIDE BY THE RESPONSIBILITIES OF A PERMIT HOLDER AS REFERENCED IN THE U.S. FOOD AND DRUG ADMINISTRATION 2013 FOOD CODE § 8-304.11.**

Stakeholder Meeting

Proposed Revisions
Maricopa County Environmental Health Code

CASE # ES-2015-001
New Owner Transition

Maricopa County Environmental Services Department
March 25, 2015

Maricopa County Environmental Services Department

Working with our community to ensure a safe and healthy environment

VISION STATEMENT:
As the recognized regional environmental leader, we will develop and foster innovative environmental health protection programs for the safety of our residents and their environment.

MISSION STATEMENT:
The mission of the Environmental Services Department is to provide safe food, water, waste disposal and vector borne disease reduction controls to the people of Maricopa County so that they may enjoy living in a healthy and safe community.

EROP

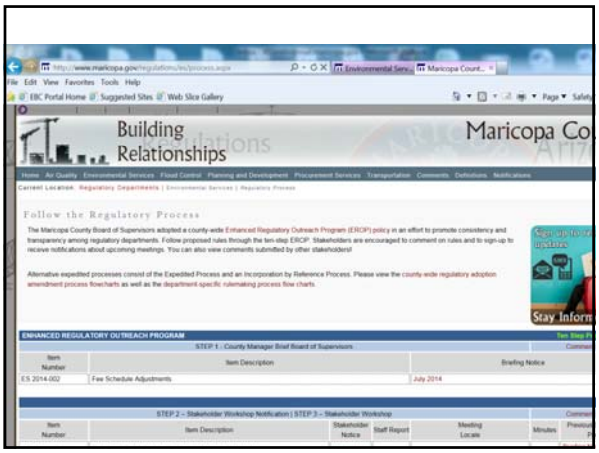
What is it?
Where do I find it?
How does it impact me?

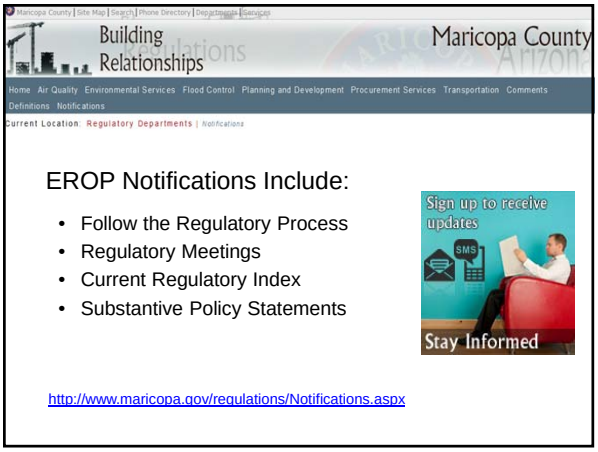
EROP: What is it?

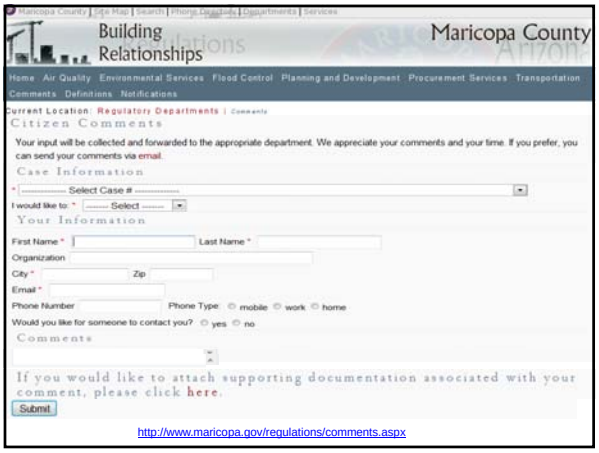
- Adopted by BOS in January 2013
- County Policy: Outreach # A1518
- Comprehensive process allows SH input
  - Adoption & amendment of all regulatory requirements
- Applicable to 6 Departments: ESD, AQ, P&D, Flood, Transportation, Procurement
- 2014 NACo Achievement Award

EROP: Where do I find it?

- Accessible from the county main page http://www.maricopa.gov/
- Accessible from Department websites
- Look for







How does EROP benefit me?

- Information
  - ➢ You know current cases and status
  - ➢ You can assist your SH with questions

❑ Did you know?

New Owner Transition

Overview:

Proposed change would allow new owners of existing food establishments to remain in business for up to 30 days while the permit application review is in progress.

New Owner Transition

Current code language does not allow for an business to operate until it has qualified for and obtained a valid permit from the Department.

REGULATION 3. Permit Required

No person shall operate a food establishment without a valid permit to do so from the Department or otherwise than in compliance with the applicable regulations in the Environmental Health Code. The permit shall be posted in a conspicuous place on the premises of the food establishment.

New Owner Transition

Proposed code language provides an exception for food establishments that meet the requirements outlined in Chapter 8, Reg. 7.

REGULATION 3. Permit Required

A. No person shall operate a food establishment without a valid permit **TO OPERATE** from the Department UNLESS: ~~or otherwise than in compliance with the applicable regulations in the Environmental Health Code.~~

(1) **THE PERSON IS OPERATING THE FOOD ESTABLISHMENT IN COMPLIANCE WITH SECTION 2, REGULATION 7 OF THIS CHAPTER; OR,**

(2) **THE FOOD ESTABLISHMENT IS EXEMPT FROM PERMITTING BASED ON THE PROVISIONS IN A.R.S. § 36-136(H)(4).**

B. The permit **TO OPERATE** shall be posted in a conspicuous place on the premises of the food establishment.

Requirements

Chapter 8, Regulation 7 outlines the conditions under which a new owner may be allowed to operate during the permit qualification process.

1. New owner must apply and receive written approval to operate during the transition.
2. Time between the ownership change and issuance of the permit will not exceed 30 days.
3. The prior owner has a valid permit at the time of the ownership change.

Requirements

4. New owner must agree to cease operating if any of the following occur:
   - Imminent health hazard (fire, flood, electrical or water outage, sewage back up)
   - Evidence of live insects and/or vermin
   - Critical pluming fixtures missing or inoperable
   - Inadequate supply of hot and cold water
   - Inadequate food temperature control equipment

Requirements

5. New owner cannot conduct operations that require a variance or HACCP plan.
   - *Variances are generally issued for specialized food processes, such as vacuum packaging food. A separate review and approval process is required by the Department to obtain a variance.*
6. New owner must adhere to the responsibilities of a permit holder outlined in the 2013 FDA Food Code.

Requirements

8-304.11 Responsibilities of permit holder:

- Comply with the provisions of code
- Report employee illnesses
- Discontinue operations for imminent health hazard
- Allow access for inspections
- Replace equipment that constitutes a public health hazard or nuisance
- Comply with directives of the Department
- Accept notices from the Department

Thank you for your participation! We welcome your questions and comments.

http://www.maricopa.gov/regulations/

Ken Conklin, R.S., MPA, CPM
Andrew Linton, R.S., CPM
Maricopa County Environmental Services Department
1001 N. Central Ave.
Phoenix, AZ 85004