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SUBSTANTIVE POLICY STATEMENT
SPS-ES-2012-002

Substantive Policy Statements (SPS) are written expressions that are strictly advisory and inform the general public of the Maricopa County Environmental Services Department's current approach to or opinion of, the requirements of ordinances or regulations, including, where appropriate, the Department's current practices, procedures or methods of action based on that approach or opinion. In accordance with A.R.S. §11-1601, SPS do not include internal procedural documents that only affect internal procedures of the Department and do not impose additional requirements or penalties on regulated parties or confidential information.

1. SPS Subject:

The purpose of this SPS is to clarify the implementation of Maricopa County's Enhanced Regulatory Outreach Program Policy Number A1518 by the Department. The purpose of this policy is to provide a comprehensive process that allows multiple opportunities for stakeholder input, regarding the adoption and amendment of all regulatory requirements. The program began operation January 9, 2013.

2. Statutory Overview:

A. Arizona Revised Statutes (A.R.S.) §§ 11-251, 11-251.05, 11-251.08, 36-183.02, 36-183.03, 36-183.04, 36-183.05, 36-183.06, 36-183.07, 36-184, 36-187, 41-1080, 49-106, 49-107

B. Maricopa County Enhanced Regulatory Outreach Program Policy Number A1518 (Policy)

C. Maricopa County Environmental Health Code

D. Maricopa County Stormwater Quality Management and Discharge Control Regulation

3. SPS:

The Department shall process adoption/amendments of regulations or ordinances, in a consistent manner to ensure opportunity for public input. This includes fee adoptions/amendments related to licenses, as defined in A.R.S. §11-1601 issued by Maricopa County. All regulations or ordinances administered by the Department shall be adopted/amended per a single process outlined in the attached Maricopa County Regulatory Adoption/Amendment Process Flow Charts (attached), which meets or exceeds all statutory requirements, and the Policy.

This Policy applies to the Air Quality, Environmental Services, Planning and Development and Transportation departments and Flood Control District of Maricopa County. No code, rule, regulation or ordinance can be enforced without substantial compliance with this Policy, except those that were approved by the Board of Supervisors (BOS) before January 9, 2013.

The Policy provides that the BOS may adopt regulations or ordinances without complying with the procedures of this SPS if it makes a finding of an emergency requiring the adoption of the regulation and ordinance and records the nature of the emergency and reason for adoption in its minutes. Not later than sixty (60) days after the adoption of an emergency measure according to the Policy, the regulation or ordinance shall be reviewed by the BOS to determine if it should continue or terminate.

The Policy also dictates that a web site will be created and accessible from the County main web page, with a distinct URL (Enhanced Regulatory Outreach Program), that can be found on the web pages of all County departments and districts engaged in regulation adoption or amendment.

This Enhanced Regulatory Outreach Program web site will serve as a central place for interested parties to participate in all County regulatory changes. At a minimum, this new web site will contain the following information:

A. A standardized County definition of the terms Regulations and Substantive Policy Statements, along with an index, organized by department or district, listing all documents that meet these definitions and a link to each.

B. Stakeholder Notification Sign-up – An opportunity for any interested person to sign up to receive notices of all proposed regulatory changes, including opportunities to participate in the process. Citizens will have the option of receiving notices regarding all regulatory changes or only those involving specific departments.

C. A process for review of complaints (Re: Failure to Observe Adoption Procedures). If an affected person has a complaint concerning a department's failure to observe the requirements of the Policy, then it shall be submitted to the department initiating or recommending the regulation or ordinance. The complaint shall contain, at a minimum, the name of the department initiating or recommending the rule; the specific rule being initiated or recommended; and an explanation specifying the failure of a process or procedure of the Policy or department SPS, which led to the complaint. Within fifteen days after the date of submission, this department shall, in writing, respond to the complaint and recommend action. The affected person may appeal the decision by filing with the Clerk of the Board within thirty days after the date of the written decision of the department, a written appeal to the BOS. The BOS shall place the complaint on its agenda within thirty days and provide a response to the complainant at the meeting. In the event of an appeal, the appealed portion of the regulation or ordinance will not be enforced until the BOS rules on the appeal.

In accordance with the Policy, the Department's content on the Enhanced Regulatory Outreach Program web site, will contain, at a minimum, the following information:

(1) Calendar – A calendar notifying the public of all major milestones and opportunities for public input on all current Department regulatory adoptions and amendments.

(2) Information about where comments can be submitted electronically or in writing.

(3) Staff Reports – Staff reports about all Department regulatory changes will be prepared and linked to the web site at least one week prior to any public meeting or hearing (Board of Health (BOH) or BOS). These staff reports will include:

- (i) A summary of the proposed regulatory change;
- (ii) An analysis of the input received during the process and how that input was responded to;
- (iii) Language of any proposed regulatory change or amendment;
- (iv) Minutes from all public meetings; and
- (v) Copies of all written and electronic stakeholder input.

In addition to the required staff report, an executive summary of the report including an overview of stakeholder input and staff responses will be provided to the BOS at least one week prior to any BOS public hearing. Stakeholder comments received after public distribution of the staff report will be included on the Enhanced Regulatory Outreach Program web site and noted as such.

(4) Department Process Flow Chart – All new regulatory amendments to be administered by the Department will be initiated by the BOH who will make recommendations to the BOS as outlined in the attached Maricopa County Environmental Services Department Regulatory Adoption/Amendment Process Flow Chart.

(5) Expedited Process Flow Chart – A flow chart depicting the Department's expedited regulatory adoption/amendment process, as outlined in the countywide Expedited Maricopa County Regulatory Adoption/Amendment Process Flow Chart is attached. This expedited process may only be used if the following criteria have been met:

- (i) The proposed amendment has been the subject of at least one Stakeholder Workshop (posted on the Enhanced Regulatory Outreach Program web site at least two weeks in advance) and one BOH meeting;
- (ii) A draft of the regulatory change was available on the Enhanced Regulatory Outreach Program web site at least two weeks prior to the BOH meeting and was forwarded to the BOH at least one week in advance of their review meeting;
- (iii) No comments of opposition to the amendment have been received from the public; and
- (iv) The BOH recommends approval.

(6) Incorporation By Reference Flow Chart – A flow chart depicting the Department’s adoption by reference rule adoption process, as outlined in the countywide Incorporation by Reference Maricopa County Regulatory Adoption/Amendment Process Flow Chart is attached. This process may only be used in the following circumstances:

(i) The rule merely changes the date of incorporation of a federal rule or statute when there has been no change in the rule per its last incorporation.

(ii) An update of a previous Code of Federal Regulations incorporation by reference where there have been changes since the last date of incorporation of the federal regulations, but the Clean Air Act or other legal requirements compel the County/State adoption of the revised federal rule if the County or State is to retain its jurisdiction.

(7) Directory of Current Regulations – A list of all Department regulations, including a link to each.

(8) Directory of SPS – A list of all Department SPS, including a link to each.

4. SPS Effective Date:

March 25, 2013

5. SPS New Document/Revision Statement:

Revised from December 10, 2012, to be consistent with changes to the countywide Policy.

6. Contact Us:

For questions or comments regarding this SPS or to obtain a copy of this document, please contact the Department Records Custodian at the address and/or phone number above.

Attachments:

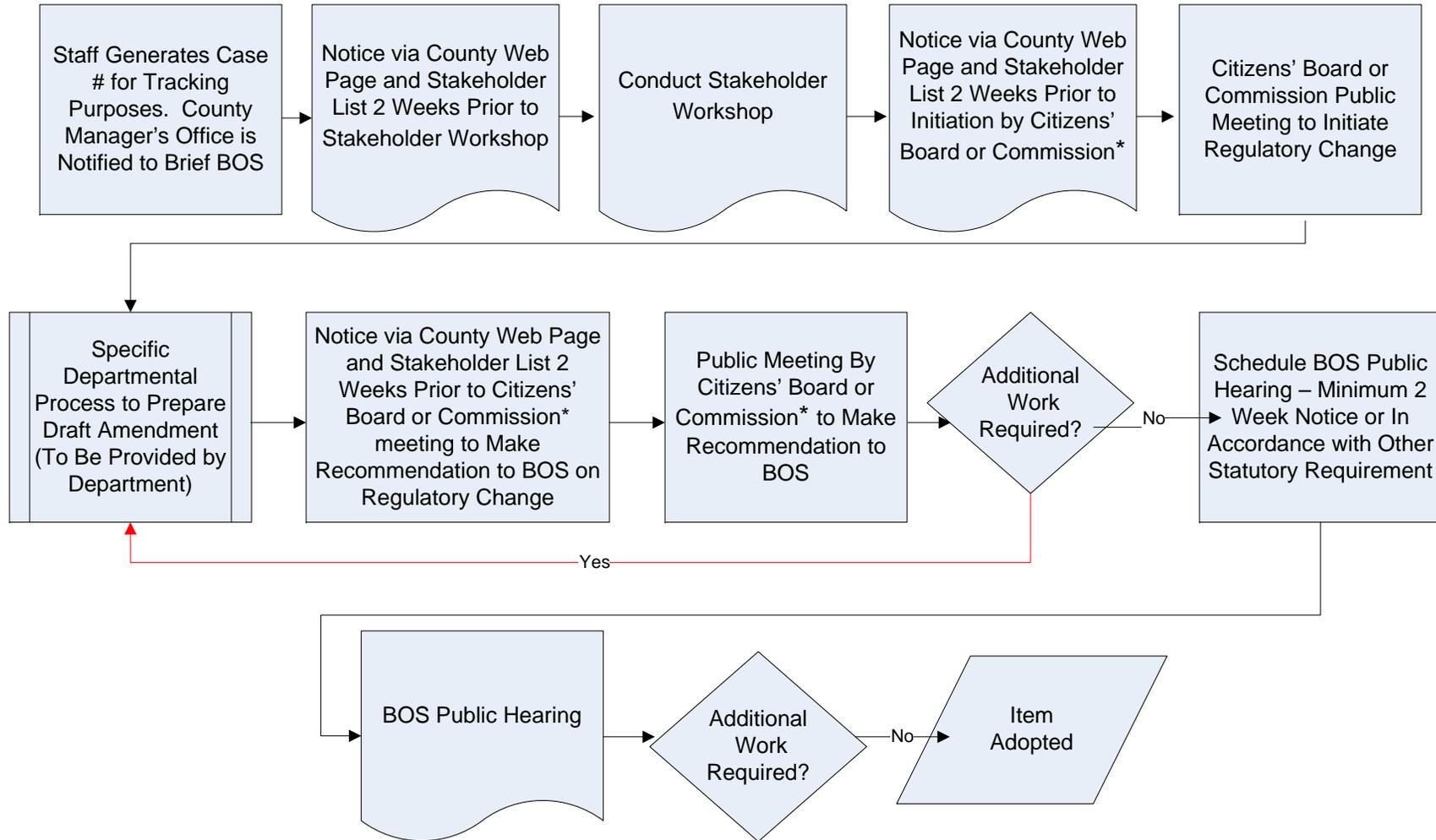
Maricopa County Regulatory Adoption/Amendment Process Flow Chart

Maricopa County Environmental Services Department Regulatory Adoption/Amendment Process Flow Chart

Expedited – Maricopa County Regulatory Adoption/Amendment Process Flow Chart

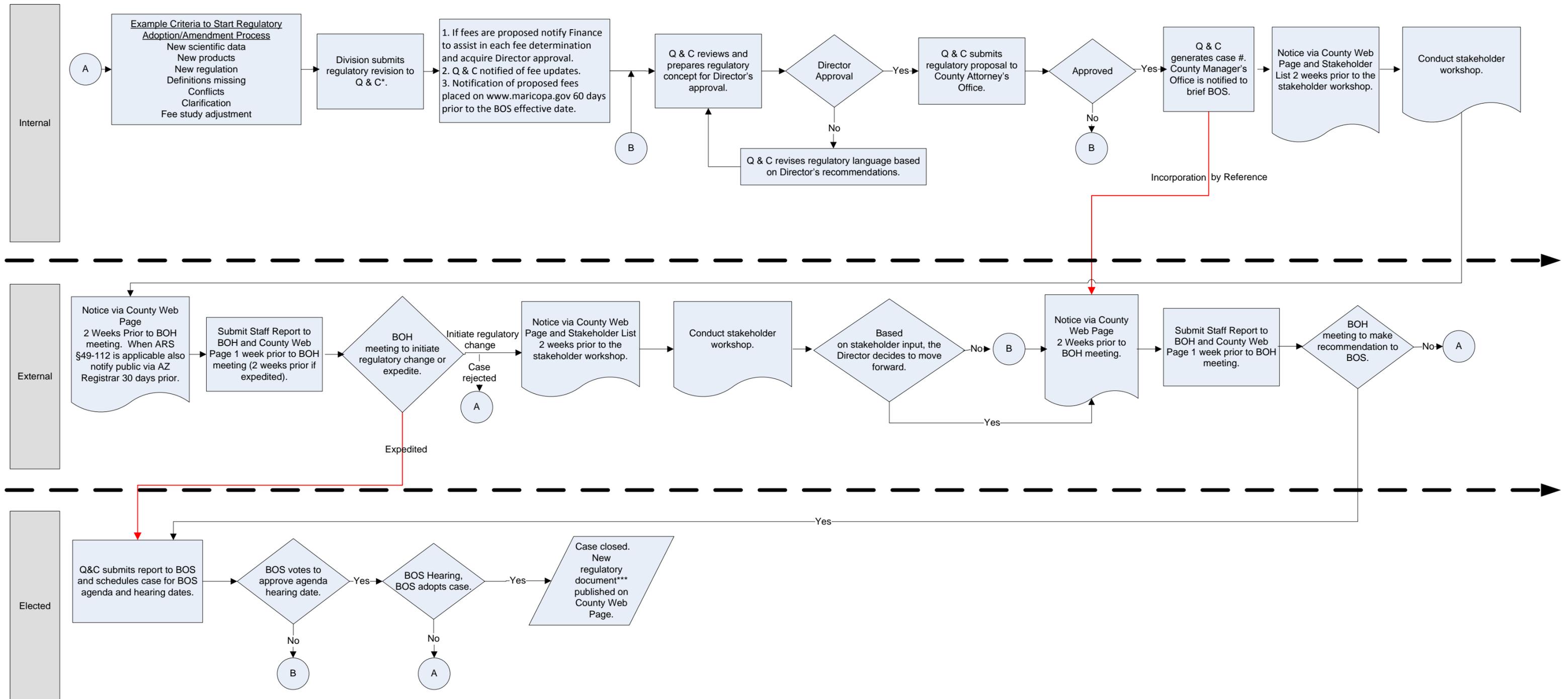
Incorporation by Reference – Maricopa County Regulatory Adoption/Amendment Process Flow Chart

Maricopa County Regulatory Adoption / Amendment Process



* Air Quality = Board of Health; Environmental Services = Board of Health; Flood Control = Flood Control Advisory Board; Planning & Development = Planning & Zoning Commission and Building Code Advisory Board; Transportation = Transportation Advisory Board

Maricopa County Environmental Services Department Regulatory Adoption/Amendment Process



Per Arizona Revised Statutes
ARS §11-251 ¶17, ¶31 & ¶66, ARS §36-184.B.3, ARS §49-106, ARS §49-112 and ARS §49-371

March 20, 2013

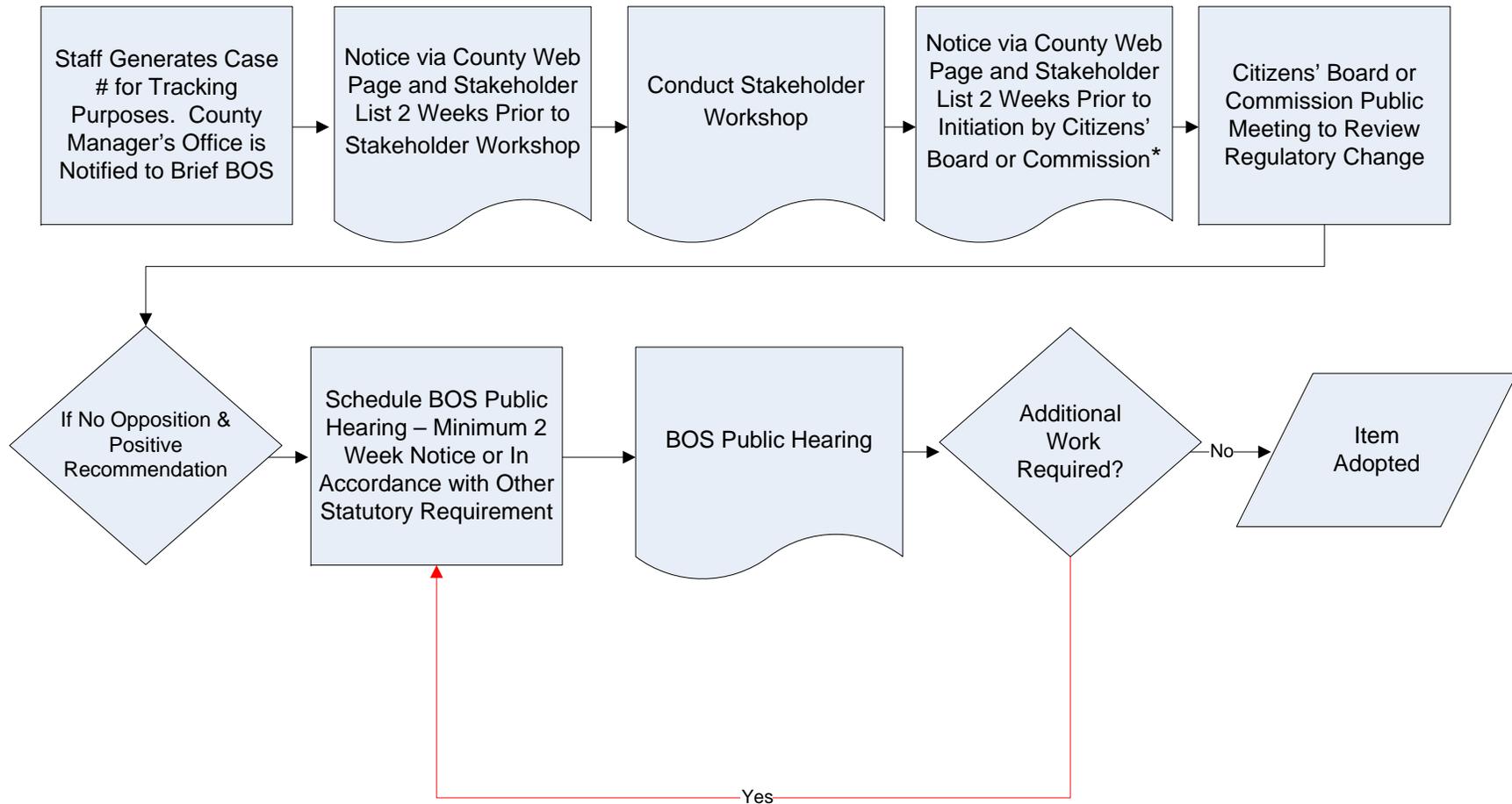
*Q&C - Maricopa County Environmental Services Department Quality and Compliance Division

**County Web Page - <http://www.maricopa.gov/regulations/>

***Regulatory document - Maricopa County Environmental Health Code, rules and regulations, including those per ARS §49-112

EXPEDITED

Maricopa County Regulatory Adoption / Amendment Process



Feb 28, 2013

* Air Quality = Board of Health; Environmental Services = Board of Health; Flood Control = Flood Control Advisory Board; Planning & Development = Planning & Zoning Commission and Building Code Advisory Board; Transportation = Transportation Advisory Board

INCORPORATION BY REFERENCE

Maricopa County Regulatory Adoption / Amendment Process

