

San Francisco Bay Conservation and Development Commission

Enforcement Audit Response as of May 7, 2020

<i>RECOMMENDATION</i>	<i>RESPONSE</i>	<i>STATUS</i>
<i>Promoting Efficiency and Effectiveness</i>		
Create and implement regulations to use limited fines to resolve minor violations	Reviewed existing standardized fines regulations and implemented procedural changes to maximize efficiency of § 11386 standardized fine process	Written case review procedures define cases for prompt resolution; in progress, complete by mid-2020
Develop guidance on violations worthy of swift action, those that can be deferred and those that do not warrant action or that can be resolved through fines	Improved prioritization and reviewed existing standardized fines regulations and implemented procedural changes to maximize efficiency of § 11386 standardized fine process	Prioritization in written case review procedures; in progress, complete by mid-2020; addressed by existing regulation section 11386
Update database to ensure that violations within each case can be tracked and identified and include when standardized fines process initiated	Improved the existing geospatial tracking system to include information on standardized fine notices and other case tracking information	Completed in October 2018
Simplify system for prioritizing cases to focus efforts on cases with greatest potential for harm to the Bay	Evaluated existing prioritization framework to determine whether changes to scoring system are needed	After Committee briefing in September 2019, Committee was satisfied that scoring system is adequate
Develop procedure to identify stale cases and seek appropriate settlements	Reviewed oldest cases and engaging in efforts to resolve	3 of the oldest identified cases resolved; 4 remaining cases in progress, complete by late-2021.
Create and implement regulations to identify milestones and timeframes for enforcement	Developed and implemented written procedures with milestones and timeframes to prevent case stagnation	In progress, complete by mid-2020
Develop and implement procedures for proactive enforcement, including site visits	Developed violator “Initial Contact” letters to elicit prompt response when reports of violations are received; implemented certification of compliance forms; tagging monitoring reports stored electronically to ensure monitoring compliance; defining and implementing a	Completed

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	process for monitoring report review; ongoing site visits as circumstances allow	
Promoting Efficiency and Effectiveness		
Implement a permit compliance position to support the efforts of enforcement staff and, if necessary, seek funding	Department of Finance review ongoing	State budget uncertain for FY 20-21
Develop and implement procedures to ensure management reviews decisions and include requirements on documenting violations, resolutions, and rationale for fines	Developing and implementing written case review procedures, documentation regarding case processing, progression, and integrating rationales for fines assessed	In progress, complete by late-2020 with long term ongoing refinement
Conduct a workforce study of permit and regulatory activities and determine whether additional staff is required	Department of Finance review ongoing	State budget uncertain for FY 20-21
Update the existing database or create a new database	Updated existing database to reflect case resolution progress in real time on the dashboard; to document new case review status codes; and to track Initial Contact letters. Evaluated alternate database from private vendor	State budget uncertain for FY 20-21
Evaluate and update permit fees every five years	Permit fee update completed; adopted by Commission January 16, 2020 and approved by the Office of Administrative Law on April 13, 2020	New fees effective July 1, 2020
Ensuring Consistency in Enforcement		
Create regulations that define substantial harm	Developed definition of significant harm	Enforcement Committee approved language in October 2019; rulemaking required, expect to initiate by December 2020
Provide criteria for calculating the number of violations present in an enforcement action	Developing guidance involving multiple unauthorized actions included in an enforcement action to determine appropriate fines	3 Committee Meetings; in progress, complete by mid-2020
Create a penalty calculation worksheet and create policies, procedures, and criteria for application	Developing a penalty policy and reviewing means of implementing once it is finalized	3 Committee Meetings; in progress, complete by mid- 2020

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<i>Ensuring Consistency in Enforcement</i>		
Conduct a review of local agency compliance with the Suisun Marsh program	Commission staff reviewed compliance of each of the components of the Suisun Marsh Local Protection Program (LPP) for consistency with the Commission's Suisun Marsh Protection Plan and provided each of the LPP agencies with a written analysis and recommendations on January 31, 2020.	Completed compliance review January 31,2020. In February 2020, the Commission started a collaborative process with the Suisun local governments and agencies to prepare a comprehensive review of the Marsh Plan and LPP for any needed amendments.
Create a policy identifying the minimum amounts from the Bay Fill Clean-up and Abatement Fund that BCDC will disburse and prioritize projects that will be supported through disbursements	Other funds to pay enforcement staff are unavailable	State budget uncertain for FY 20-21
Appoint a new citizens advisory committee	Commission reviewed existing working groups and other opportunities for citizen participation	Commission decided not to reconstitute in January 2019
Update regulations on administrative permit issuance	Changes to regulations on administrative permit issuance to be explored as part of comprehensive regulatory package	Potential changes being considered as part of comprehensive review of permitting regulations currently underway; expect to initiate rulemaking by September 2020