

# **REGULATION FOR THE ISSUANCE OF REFUSE COLLECTION LICENSES AND PERMITS WITHIN THE CITY AND COUNTY OF SAN FRANCISCO**

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## **Chapter 1. Authorization**

The Health Commission issues this regulation pursuant to Sections 4.104 and 4.110 of the Charter of the City and County of San Francisco ("City"). The Refuse Collection and Disposal Ordinance of 1932 (as amended and re-codified, in part -- San Francisco Health Code ("SFHC"), Article 6) ("Initiative Ordinance"), authorizes the Director ("Director") of San Francisco Department of Public Health ("Department") to implement this regulation. The Director has delegated this authority to the Director of the Environmental Health Branch. Pursuant to Resolution 259-92, adopted on April 7, 1992, the Board of Supervisors designated the Bureau of Environmental Health Services, now known as the Environmental Health Branch, as the Local Enforcement Agency charged with the enforcement of the California Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 *et seq.*, and its implementing regulations.

## **Chapter 2. Background**

Section 4 of the Initiative Ordinance prohibits any person or entity from collecting, transporting, or disposing of refuse in the City unless they have a license from the Director ("License"), and if applicable, a permit to operate on certain designated routes ("Permit"). In 1992 and 1999, the Health Commission adopted regulations for the issuance of refuse collection permits for federal facilities and facilities under the management and control of the City at Treasure Island and Yerba Buena Island ("TI/YBI") ("1992 Refuse Regulation" and "1999 Refuse Regulation," respectively). With the development of private residences on TI/YBI, it is appropriate for the Director to issue licenses and permits to allow for adequate refuse Service on TI/YBI. These private residences are not subject to the 1992 or 1999 Regulations. Therefore, this regulation is written with the intent to clarify the requirements and procedures that any person, firm, or corporation who is interested in providing refuse Service within the City is required to follow to obtain a license or permit in accordance with the requirements set forth in the Initiative Ordinance and Article 6 of the SFHC.

## **Chapter 3. Scope**

The Health Commission hereby adopts this regulation for the issuance of licenses and permits for refuse Service within the City. This regulation serves to carry out the City's responsibilities under federal, state, and local laws which set forth requirements for the handling of refuse. This regulation also protects the public health and welfare by regulating the Collectors that provide refuse Service in the City.

This regulation shall apply to any Applicant proposing to provide refuse Service within the City, including any land that becomes part of the City after the enactment of this regulation. This regulation provides both procedural and substantive requirements for issuance of a license to the Applicant to qualify as a Collector and the issuance of a permit to the Collector to provide Service on certain designated routes. This regulation does not govern the issuance of refuse collection permits for federal facilities or facilities under the management and control of the City on TI/YB, which are subject to the 1992 and 1999 Regulations, respectively. This regulation does not apply to persons, firms, or corporations who collect, transport, or dispose of only refuse that has a commercial value, including, for example wastepaper.

#### **Chapter 4. Definitions**

As used in this regulation, the following words or phrases shall have the meanings set forth below. Terms that are not defined in this regulation shall have the meaning attributed to them in the Initiative Ordinance or Article 6 of the SFHC.

"Applicant" means a person, firm, or corporation applying for a license or permit, as applicable, issued by the Department to collect, transport, or dispose refuse in the City.

"City" means the City and County of San Francisco.

"Collector" means a person, firm, or corporation duly licensed to collect, transport, or dispose of refuse pursuant to the provisions of the Initiative Ordinance and this regulation.

"Complete" means all documentation required as part of the application for a refuse collection license or permit as applicable, pursuant to this regulation have been provided to the Department.

"Correct" means all information provided as part of the application for a refuse collection license or permit pursuant to this regulation is accurate, exact, and fully describes the applicable filing requirement information.

"Department" means the San Francisco Department of Public Health.

"Director" means the Director of the San Francisco Department of Public Health or their designee.

"Inadequate Service" has the meaning set forth in Section 4 of the Initiative Ordinance.

"Initiative Ordinance" means the Refuse Collection and Disposal Ordinance of 1932 adopted on November 8, 1932, and as amended from time to time.

"refuse" has the meaning set forth in Section 1 of the Initiative Ordinance.

"route" has the meaning set forth in Section 4 of the Initiative Ordinance.

"Service" means the act of proper collection, transport, dispose, and/or charge of refuse.

## **Chapter 5. General Requirements**

### **Section 1. Business Standards**

- (a) Any person, firm, or corporation who desires to collect, transport, or dispose of refuse in the City shall obtain and maintain a valid license as a refuse Collector and, if applicable, a route permit from the Department for each route at which the Service is proposed to be provided.
- (b) A Collector shall use their legal business name on all documents related to refuse Service.
- (c) A Collector shall notify the Department not less than thirty (30) days prior to making any modification to any operational aspects of their refuse collection Service.
- (d) Minor modifications may include, but are not limited to, changes to contact information, standard operating procedures, maintenance procedures, refuse Service collection schedules, or a switch of refuse collection trucks for a route.
- (e) Major modifications may include, but are not limited to, changes to business name, change of ownership, conviction history, expansion of route Service area, financial competencies, operational competencies, waste stream collection, and change in transfer/processing facility and disposal locations.
- (f) As determined by the Director, a new License and/or Permit application shall be submitted, and a new public hearing process may be required for any major modification.
- (g) Any permit or license issued under this regulation may include such other terms and conditions as the Director deems appropriate, including but not limited to durational limits or beginning and ending dates for such licenses and permits. The Director will provide a description of such terms and conditions as part of the application process for those licenses or permits.

### **Section 2. Change of Ownership**

- (a) In the event of a change of ownership, the new owner must submit a refuse Collector license application for a new evaluation to obtain a new license.
- (b) Change of ownership is defined as a change in corporate structure or ownership transferring sale or other exchange of 50 percent or more of the ownership or control of the business; provided, however, for a corporation, transfer of 25 percent of the stock ownership shall be deemed to be a change of ownership.
- (c) No license or permit may be transferred or assigned to another person, firm, or corporation.

### **Section 3. Application Evaluation**

- (a) No license or permit application package will be reviewed unless the Director determines that the package is Complete and Correct.

- (b) All license and permit application packages will be evaluated using criteria as determined by the Director in consultation with other city agencies as applicable.
- (c) Evaluation criteria may be amended to meet new refuse Service and other federal, state, and local standards and needs for the City.
- (d) The Director may consider the extent to which the Applicant has the capacity to meet conditions based on overall competency, including but not limited to, compliance with applicable laws and its efforts to ensure compliance with applicable laws.

#### **Section 4. Appeal to Board of Appeals**

Any person who has been denied a permit or license, or whose permit or license has been suspended, revoked or withdrawn, or who believes that his or her interest or the public interest will be adversely affected by the grant, denial, suspension or revocation of a license or permit may appeal or request for a review of Director's decision with the Board of Appeals in a manner prescribed in Article I of the San Francisco Business and Tax Regulations Code.

#### **Section 5. Due Date**

If a deadline specified in this regulation falls on a weekend or a holiday, the deadline shall be extended to the close of business on the following business day.

### **Chapter 6. Refuse Collector License Application**

#### **Section 1. Filing Requirements**

- (a) Every Applicant seeking to provide Service shall submit a Refuse Collector License application package with the Department.
- (b) A non-refundable application fee, set forth in San Francisco Business and Tax Regulations Code, Article 1, Section 35(a), must accompany the application package. Application fee can be found on the Department's website.
- (c) Complete a Refuse Collector License application form with the Applicant's information, including but not limited to Business Name (DBA), names of the Business Owner(s), ownership type, contact information, date, and attestation from the Applicant or Applicant's authorized representative declaring under the penalty of perjury that the information provided in the application is true and correct.
- (d) Provide five letters of recommendations or references regarding an Applicant's capability as a refuse Collector.

- (e) Resumes of Key Managers demonstrating sufficient knowledge and experiences related to solid waste standards to successfully operate a reliable solid waste operation in various municipalities.
- (f) History, description, and outcome of an Applicant's (including their key managers) criminal, civil, and administrative violations substantially related to the qualifications, functions, or duties of the business for which the application is made, in the past 10 years. In reviewing the information, the Director shall consider the nature and gravity of the act, professional misconduct, or offense, the criminal record, the time that has elapsed, and whether and the manner that Applicant (or key manager) resolved each violation, including whether there are any outstanding judgements, penalties, or fines.
- (g) History, description, and outcome of Applicant's denials, suspensions, or revocations of a refuse Collector license by the Director in the past 5 years.
- (h) If an Applicant requests that any part of the application remain confidential, Applicant must include a statement of legal justification regarding the City's right to uphold the request.

## **Section 2. License Application Process**

- (a) Within fifteen (15) days, from the filing date of an application package, unless extended by written notice at the discretion of the Director, the Director shall conduct the evaluation and shall either grant the license as requested or deny the license.
- (b) The Director shall publish the Applicant's information and evaluation result on the Department's website.
- (c) The Director shall notify the Applicant in writing within 5 days of denying an application package, that their request for a license is denied and a right to review the Director's decision may be submitted, as described in Section 4 of Chapter 5.
- (d) The Director's action shall be final at the close of business on the tenth (10<sup>th</sup>) day following the issuance of the license or denial unless a request is filed with the Board of Appeals as described in Section 4 of Chapter 5, to review the Director's decision.

## **Section 3. Grounds for License Denial**

- (a) No license shall be issued if the Director finds that an Applicant has submitted fraudulent or misrepresentative information in the application package.
- (b) No license shall be issued if an Applicant fails to submit the required filing fee.
- (c) No license shall be issued if the application package is not Complete and/or Correct.
- (d) No license shall be issued if an Applicant fails to pass the evaluation process.

- (e) No license shall be issued if an Applicant has had a refuse Collector license revoked by the Director within 3 years from the date of the application.

#### **Section 4. License Conditions**

- (a) A Collector shall comply with this regulation and all other applicable federal, state, and local laws which set forth requirements for the handling of refuse.
- (b) A Collector shall conduct operations in a safe, reliable, and professional manner.
- (c) A Collector must also obtain a permit(s) issued by the Director if applicable, to provide Service.
- (d) Each refuse collection truck used to transport refuse through the City streets shall be plainly marked thereon with the assigned number by the Director, pursuant to Section 8 of the Initiative Ordinance.
- (e) A Collector shall comply with the City's solid waste program requirements, including compliance with the San Francisco zero waste goal and policies and the San Francisco Waste Acceptance Control Program, and disposal arrangements, as they may be amended from time to time.
- (f) A Collector shall indemnify, defend, and hold harmless the City from financial loss, damages, or claims (collectively or individually as "Claim"), directly or indirectly, in whole or in part, arising out of or resulting from any act or omission that is related to the subject matter of the license. A Collector shall indemnify the City for the reasonable fees of attorneys, consultants, and experts and related costs and the City's costs of investigating any Claim. A Collector has an immediate and independent obligation to defend the City from any Claim which actually or potentially falls within the subject matter of the license even if such allegation is or may be groundless, fraudulent, or false, which obligation arises at the time such Claim is tendered to a Collector by the City and continues at all times thereafter. A Collector's obligation to indemnify, defend, and hold harmless the City shall survive the expiration of the license.

#### **Section 5. License Revocation**

- (a) The Director may revoke a refuse collection license issued under this Chapter due to the following reasons:
- (1) The Collector fails to properly collect refuse in the City; or
  - (2) The Collector overcharges the public for refuse Services; or
  - (3) The Collector's insolence towards persons whose refuse they collect.

#### **Section 6. Director's Hearing for License Revocation**

- (a) The Director shall notify the Collector at least three days before the hearing of the Department's intent to revoke the license.

- (b) The Director's hearing shall be held in accordance with the Environmental Health Branch Director's Hearing procedures, as they may be amended from time to time. Such procedures may be found on the Department's website (<https://www.sfdph.org/dph/EH/dirHrgs/default.asp>).

## **Chapter 7. Refuse Permit Application Procedures**

### **Section 1. Open Permit Application Period**

The Department shall publish on the Department's website (<https://sfdph.org/dph/EH/SolidWaste/default.asp>) when a route is available for submission of new permit applications. The Department shall provide a notice explaining the need for the refuse Service on the route and specify the manner and timeline in which the permit applications shall be submitted. Applicants shall submit permit applications as instructed by the deadline listed on the notice to be eligible for evaluation and consideration.

### **Section 2. Pre-Application Questions/Answers**

- (a) Applicants can e-mail questions concerning the route and permit application process during a scheduled E-Question session. The Department shall publish the E-Question session start and end dates on the Department's website (<https://sfdph.org/dph/EH/SolidWaste/default.asp>). The website notice will include the e-mail address to which E-Questions must be directed. The questions will be answered by Department staff. All questions and answers will be publicly disclosed. Any change or addition to the Application requirements resulting from the E-Question session will be posted on the Department's website (<https://sfdph.org/dph/EH/SolidWaste/default.asp>). It is the responsibility of each Applicant to check for any changes or other pertinent information posted on the Department's website.
- (b) In addition, the Department may schedule a pre-application conference open to all Applicants. If held, the Department shall publish Conference details on the Department's website (<https://sfdph.org/dph/EH/SolidWaste/default.asp>). Applicants' representatives are urged to arrive on time. Topics already covered will not be repeated for the benefit of late arrivals. Any change or addition to the application requirements resulting from the pre-application conference will be posted on the Department's website (<https://sfdph.org/dph/EH/SolidWaste/default.asp>). It is the responsibility of each Applicant to check for any changes or other pertinent information posted on the Department's website.

### **Section 3. Filing Requirements**

- (a) An Applicant seeking to provide Service on a route within the City, or to modify an existing refuse collection permit shall submit a route permit application package with the Department.
- (b) A non-refundable application filing fee, set forth in San Francisco Business and Tax Regulations Code, Article 1, Section 35(a), must accompany the application package. Application fee can be found on the Department's website.
- (c) Showing of Need.
  - (1) For an Applicant applying for a new refuse collection permit, the application shall contain a demonstration of the need for a new permit based on one of the following reasons:
    - a. There is no permitted Collector for the area(s) or route(s); or
    - b. The current permitted Collector(s) is providing inadequate service as defined in Section 4 of the Initiative Ordinance.
- (d) Complete a route permit application form with the Applicant's information, including but not limited to Business name (DBA), name of the Business Owner(s), ownership type, contact information, date, refuse Collector license information or evidence of submission of a refuse collector license application to the Department, existing route permits if applicable, and the proposed route information. The application must contain the following:
  - (1) An attestation declaring to abide by all the provisions of the Initiative Ordinance and will not charge a greater rate for the refuse Services than the fixed rate in or pursuant to the Initiative Ordinance.
  - (2) An attestation declaring under the penalty of perjury that the information provided in the application package is true and correct.
  - (3) Evidence of submission of Project Application to San Francisco Planning Department ("Planning Department") to initiate Environmental Review pursuant to the California Environmental Quality Act ("CEQA"). Environmental Review shall be consistent with and support proposed permit. Upon the satisfactory compliance with all requirements set forth in this regulation, the Director may issue a Conditional Permit conditioning its validity on the final approval of the Planning Department's Environmental Review of applicant's Project Application pursuant to the requirements of CEQA.
- (e) Financial Responsibility
  - (1) Records of audited financial statements, including Profit & Loss Statements, Balance Sheets, and all required notes to the financial statements for the past five (5) years. Such financial statements shall be certified by a Certified Public Accountant.

- (2) Evidence of ability to secure a performance bond or equivalent security equal to the amount for up to six (6) months of Service or in an amount satisfactory to the Director.
- (3) Certificate of liability insurance in the amount of \$1 million per occurrence/\$2 million aggregate, whichever is greater.
- (4) Description of any previous bankruptcies and other significant existing financial obligations (e.g., lease, pending lawsuits) within the past five (5) years.

(f) Operational Competency

- (1) Statement of refuse industry experience that is comparable to the level required at the proposed route(s) served. Demonstrate the capacity to successfully operate reliable refuse collection Services in San Francisco by providing a descriptive statement of the manner in which refuse Services are provided in service areas outside of the City, if any. Information such as size, number, and topography of markets they serve and capability to operate and deliver Services in a comparably large and dense cities will be used as determining factors during the evaluation.
- (2) List of equipment used to collect and transport refuse, trucks and equipment lease agreements
- (3) Description of maintenance procedures.
- (4) Location and description of offices and maintenance shops.
- (5) Refuse collection method and proposed collection schedules.
- (6) DMV Records of all refuse collection vehicle drivers employed by the Applicant and years of commercial driving experience.
- (7) Description of major vehicle accidents, causing any injury or death to a person or damage to vehicle(s) or property(ies) over \$1,000, in the past five (5) years.
- (8) Worker's compensation experience modification factor for the past five (5) years.
- (9) Description of safety procedures.

(g) Program Compliance

- (1) Procedures of waste acceptance control program to exclude hazardous and designated wastes.
- (2) Customers' complaint resolution procedures.
- (3) Copy of customer complaint log from a comparable refuse collection operation for the previous five (5) years.
- (4) Planned method for final disposition of refuse collected, including but not limited to materials being transferred to other facilities or operations for further processing, recycled materials, and solid waste.

(h) If the Applicant requests that any part of the application remain confidential, Applicant must include a statement of legal justification regarding the City's right to uphold the request.

## **Section 4. Permit Application Process**

### **(a) Determination of Completeness**

The Director shall notify the Applicant within fifteen (15) days from the submission deadline date, whether the application has been accepted as Complete. In an event that both license and permit applications are concurrently under review, the Director may accept permit application as Complete, pending approval of the license. At the discretion of the Director, the Director may extend the time period to notify Applicant on whether the application is Complete by providing written notice to the applicant of the additional time. If the application is incomplete, the Director shall notify the applicant that the application is incomplete and is not accepted for filing. The Director shall identify all deficiencies in the application. The Director shall have discretion to either allow the Applicant up to a maximum of five (5) days to cure all deficiencies cited or to reject the application.

### **(b) Notice of Completed Application**

The Director shall provide notice of completed application to interested parties, including, but not limited to, all existing refuse collection permittees and other permit applicants. The Director shall publish the notice of completed application on the Department's website for fifteen (15) days. The published notice shall state that the Applicant(s) has applied for a refuse collection permit at the specified route(s) and that a public hearing will be held only if requested by an interested party or the public within fifteen (15) days of the first publication of the notice of completed application. The published notice shall specify the date at which the time period to request a public hearing expires. The published notice shall specifically state that a Permit or a Conditional Permit may be issued without a public hearing unless a timely request for a hearing is made. The notice shall indicate that those requesting a hearing shall submit a nominal fee in an amount approved by the Board of Supervisors made payable to the Department of Public Health.

### **(c) Notice of Public Hearing on Completed Applications**

If the Director receives a request for hearing within the time period set forth in subsection 4(b) of this Chapter or in her or his discretion deems that a public hearing is in the public interest, the Director shall set a public hearing on the completed application(s) to occur within thirty (30) days from the expiration of the time period set forth in subsection 4(b) of this Chapter. Notice of a public hearing shall be given by publication on the Department's website and not less than fifteen (15) days prior to the date of such hearing. Where multiple applicants are seeking a refuse collection permit for the same route(s), a public hearing shall be held on all pending completed applications if a request for a hearing is made for any of the pending completed applications.

(d) Conduct of Public Hearing

The Director or her or his designee shall preside over the public hearing on the completed permit application(s). Testimony shall be taken from the Applicant(s), City staff, and interested members of the public. The Director shall accept written and oral testimony at the hearing, and all oral testimony shall be recorded by an electronic recording instrument. All oral testimonies shall be accompanied by written comments. All public comments on the application(s) must be presented in written form by the close of the hearing, unless otherwise specified by the Director.

(e) Final Action on Permit Application.

Within thirty (30) days of the public hearing, if any, or the notice of completed application, the Director shall conduct the evaluation of the application package. Any Permit decision will be made subject to any required environmental review as determined by Planning and will subject Director's evaluation period to be extended accordingly.

- (f) The Director will take final action within 30 days of the public hearing, if any, or the notice of completed application. At the discretion of the Director, the Director may extend the time period for taking final action by providing written notice to the Applicant of the additional time. The decision will be in writing and sent to Applicant(s), and any person requesting a copy, and to all persons who presented testimony at the public hearing (if any), within five (5) days of rendering a final decision, including a response to any testimony presented at a public hearing (if any).
- (g) The Director shall take final action on the permit application package by sending a copy of the permit, or permit denial, to the Applicant(s)

**Section 5. Grounds for Permit Denial**

- (a) No permit shall be issued if the Director finds that an Applicant submitted inaccurate information in the application package.
- (b) No permit shall be issued if an Applicant fails to submit the required Permit review fee.
- (c) No permit shall be issued if the Permit application package is not Complete and/or Correct.
- (d) No permit shall be issued if an Applicant fails to pass the evaluation process.
- (e) No permit shall be issued if an Applicant fails to provide evidence of CEQA compliance or environmental review compliance with the Planning Department.
- (f) No permit shall be issued if an Applicant has had a permit terminated under the Initiative Ordinance or this regulation within 3 years from the date of the application.

- (g) No permit shall be issued for a designated route already served by a refuse Collector, unless the Director makes a finding that the refuse Collector is providing inadequate service as defined by the Initiative Ordinance.

## **Section 6. Permit Conditions**

- (a) A permit shall not be exclusive.
- (b) The Director may impose permit conditions including but not limited to, conditions that the Director determines are necessary to protect the public health and safety.
- (c) Any refuse collected within the City pursuant to this Chapter must be disposed of consistent with the City's Landfill Agreement approved on July 22, 2015, as amended from time to time. A copy of this agreement shall be provided to every permit holder.
- (d) Refuse Service activities shall be limited to the permitted route(s).
- (e) Permitted refuse collection trucks may operate on multiple routes of the City streets, provided that the said routes are permitted to the same Collector.
- (f) A Collector shall maintain records of financial responsibility, operational competency, and standard operating procedures in a form and manner acceptable to the Director.
- (g) A Collector who maintains, conducts, and operates a Refuse collection truck shall submit the Application For Refuse Collection Truck Permit with the Director for approval prior to providing Service within the Route, pursuant to SFHC, Article 12, [Section 714](#). Annual Refuse vehicle license fee must be paid for the Refuse collection truck health permit to remain valid.
- (h) A Collector shall comply with California Code of Regulations, Title 14, Chapter 3, Minimum Standards for Solid Waste Handling and Disposal.
- (i) The Director may perform inspections to ensure compliance with this regulation and any other applicable laws including, but is not limited to reviewing of valid licenses, permits, refuse collection related records, conducting field visits on the permitted Routes and fleet locations, issuing educational materials, inspection reports, Notice of Violation, and Enforcement Orders.
- (j) A Collector shall indemnify, defend, and hold harmless the City from financial loss, damages, or claims (collectively or individually as "Claim"), directly or indirectly, in whole or in part, arising out of or resulting from any act or omission that is related to the subject matter of a Permit. A Collector shall indemnify the City for the reasonable fees of attorneys, consultants, and experts and related costs and the City's costs of investigating any claim. A Collector has an immediate and independent obligation to defend the City from any Claim which actually or potentially falls within the subject matter of the license even if such allegation is

or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to a Collector by the City and continues at all time thereafter. A Collector's obligation to indemnify, defend, and hold harmless the City shall survive the expiration of the Permit.

### **Section 7. Permit Termination**

- (a) The Director shall immediately terminate a Permit under this Chapter due to the following reasons:
- (1) The Collector's license is revoked pursuant to Chapter 6, Section 6 of this regulation.
  - (2) The Collector is convicted for any violation of the Initiative Ordinance. All permits issued shall be forthwith and immediately terminated and cancelled as of the date of conviction.

### **Chapter 8. Emergency Refuse Collection**

Upon the submittal of a written request, the Director may issue a temporary emergency permit without a hearing when necessary to protect the public health and to ensure the continuity of refuse collection Service. A Collector shall submit a request for the emergency permit and a statement describing the cause and nature of the emergency. The Director may assess an emergency permit fee of up to an amount approved by the Board of Supervisors. In assessing an emergency permit fee, the Director shall consider a Collector's degree of culpability in causing the emergency; Emergency permits shall expire upon issuance of a permit or in 120 days, whichever is sooner.

### **Chapter 9. Compliance Review**

Permits shall be reviewed from the date of last issuance at least once every five years. The Director shall notify the Collector of the review no less than 60 days before the five-year anniversary. The Director shall review the conditions of the permit, identify changes in design and operation, and prepare a permit review report outlining actions, if any, that are required of the Collector.

### **Chapter 10. Fees**

In addition to the license and permit application fees, Applicant shall pay additional fees to reimburse the City for costs relating to the application review processes. These costs may include, but are not limited to, and additional consultation review hours.