Ordinance amending the Health Code to require electronic applications for registration of hazardous materials and for underground storage tanks be filed through the California Environmental Reporting System, to eliminate the requirement that registration of hazardous materials plans include a program for reduction of hazardous materials, and to provide for fee adjustment; and making environmental findings.

NOTE: Additions are single-underline italics Times New Roman; deletions are strike-through italics Times New Roman. Board amendment additions are double-underlined; Board amendment deletions are strikethrough normal.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 130401 and is incorporated herein by reference.

Section 2. The San Francisco Health Code is hereby amended by amending Sections 1110.1, 1120, and 1120.1, and adding Section 1176.1 to read as follows:

SEC. 1110.1. HAZARDOUS MATERIALS PLANS AND APPLICATION FOR CERTIFICATE OF REGISTRATION.

Every business, or owner of real property upon which an establishment is located, that is required by this Article to register and implement a hazardous materials plan shall obtain a certificate of registration by filing an written application with the Director of Health through the California Environmental Reporting System ("CERS") upon forms furnished for that purpose, certifying that the hazardous materials plan as described in the application meets the
requirements of this Article—California Health & Safety Code 25404, et seq., and paying the
required fees. A complete application shall include, without limitation, all of the following:

(a) Part 1. General business information, which shall include, but not be limited to:

   (1) The name and address of the establishment and business phone number of
   applicant, the name and titles and 24-hour emergency phone numbers of the primary response person
   and an alternate, the number of employees, number of shifts, hours of operation, and principal business
   activity and its SIC Code number;

   (2) The names and addresses of the persons who own and operate the business and, if
different, the name and address of the person or persons who own the real property upon which the
business or any portion thereof is located;

   (3) Such other information as is necessary to enable the Director of Health to
determine that employees and the general public are protected from exposure to hazardous materials.

(b) Part 2. A chemical inventory reporting form, including but not limited to the following
information:

   (1) The information required pursuant to Health and Safety Code Section 25509 and
any implementing regulations;

   (2) Any additional inventory information required by Section 11022 of Title 42 of the
United States Code, as that section read on August 1, 1997, or as it may be subsequently amended,
until such time as the inventory information required above is determined, pursuant to federal law or
regulation, to be substantially equivalent to the inventory information required under the Emergency
Planning and Community Right-to-Know Act of 1986 (Title 42 of the United States Code, commencing
with Section 11001);

   (3) For mixtures, the inventory information reported shall be the required information
on the entire mixture;
(4) For hazardous materials handled by freight forwarding and freight transportation
services, the establishment is not required to report hazardous materials stored for less than 30 days.

(c) Part 3. A plan for emergency response to a release or threatened release of a
hazardous material, including but not limited to the following information:

(1) Immediate notification to appropriate local emergency rescue personnel;

(2) Procedures for the mitigation of a release or threatened release to minimize any
potential harm or damage to persons, property or the environment;

(3) Evacuation plans and procedures, including immediate notice, for the business site
and for the affected public;

(4) Information on the availability, testing, and maintenance of emergency equipment.

(d) Part 4. A program and implementation plan for training all new employees and annual
training, including refresher courses, for all employees in safety procedures in the event of a release or
threatened release of a hazardous material, including but not limited to, familiarity with the plans and
procedures specified in Part 3. Businesses shall maintain written records of such training including,
but not limited to, descriptions of the training classes held and lists of attendees, including names,
dates, and signatures. Such documentation shall be provided to the Director upon request.

(e) Part 5. A program for reducing the use of hazardous materials and the generation of
hazardous waste if required of the applicant pursuant to this subsection.

(1) For an applicant subject to the Hazardous Waste Reduction and Management
Review Act (HWRMA) (Article 11.9 of Chapter 6.5 of Division 20 of the California Health and Safety
Code, commencing with Section 25244.12), which Act is incorporated into this Article by reference, the
applicant shall, on request of the Director of Health, submit a copy of the applicant's current source-
reduction evaluation review and plan, hazardous waste management performance report, and plan and
report summaries prepared pursuant to Health and Safety Code Section 25244.18(g) and applicable
regulations.

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(2) For an applicant not subject to HWRMRA, if a California Department of Toxie Substances Control Hazardous Waste Audit Study Checklist is available for the applicant's industry classification, the applicant shall, on request of the Director of Health, submit a completed copy of the most current applicable checklist and a certification by the applicant that the information contained in the completed checklist is true and correct to the best of the applicant's knowledge. An applicant may exempt from the audit any waste stream which is exempted from the requirements of HWRMRA and its implementing regulations. The audit shall be reviewed and updated every four years.

(3) (A) For each applicant covered by Subsection (e)(1) or (2) above, whose inventory includes one or more hazardous materials that do not enter a waste stream, the applicant shall submit a hazardous materials reduction plan that takes into account all hazardous materials stored and identifies hazardous materials reduction measures that are technically feasible and economically practicable.

(B) The plan shall identify technically feasible product substitutions or product use reduction or elimination measures.

(C) The plan shall estimate hazardous materials use expected to be reduced annually, a timetable for implementation of each reduction measure and certification that the information submitted in the plan is true and correct to the best of the knowledge of the applicant.

(fo) Part 65. A map of the business establishment drawn at a scale and in a format and detail that meets the Director's requirements. The map shall be updated whenever the business is required to obtain an addendum to the certificate of registration or any additional approvals.

(gf) In the event the business determines that some or all of the information contained in the hazardous materials application for registration constitutes a trade secret, the business shall place such information on a separate hazardous materials application for registration and clearly mark each sheet of said form "Trade Secret." The Director shall take measures to ensure that the information contained on the hazardous materials application for registration not be disclosed except pursuant to
the protections and according to the procedures and standards set down in Section 1142 and any
regulations adopted by the Health Commission pursuant to the provisions of this Article.

—(hg)—In addition to the information previously specified in this Section, the Department
may require a business or the owner of real property upon which a business establishment is located to
submit hazard characteristic information on the hazardous materials stored, including but not limited
to, applicable Material Safety Data Sheets, and any additional information that it finds is necessary to
protect the health and safety of persons, property, or the environment. Following submittal of hazard
characteristic information, the Department may require the applicant to revise any part of the
application to accurately reflect hazards identified by the Department through review of such
information.

SEC. 1120. PERMIT TO OPERATE AN UNDERGROUND STORAGE TANK.

(a) Except as otherwise authorized by this Article, Chapter 6.7 of the California
Health and Safety Code, commencing with Section 25280, and any implementing regulations,
no person shall own or operate an underground storage tank ("UST") unless a permit for its
operation has been issued by the Department as required by this Article, Chapters 6.7 and
6.75 of the California Health and Safety Code, commencing with Section 25280, and any
implementing regulations.

(b) Any person required to obtain a UST permit pursuant to this Article shall
submit an application through the California Environmental Reporting System ("CERS") and any
required information and fees upon notification by the Department. Any person so notified by
the Department who fails to submit the required information and fees within the time specified
in the notice shall be assessed an additional fee and a site investigation fee, if a site
investigation is required, as a penalty. The amount of the additional fee and site investigation
fee is specified in Section 1176. A person assessed such fees may appeal the amount of the
fee levied by requesting a Director's hearing pursuant to Section 1137.
SEC. 1120.1. APPLICATION FOR PERMIT.

(a) Any person that is required to obtain one or more UST permits shall obtain the permits by filing the required application form through the California Environmental Reporting System ("CERS") application forms required by the Department, paying the required permit fee and demonstrating compliance with this Article, and Article 31, if the permit is for a site located in Hunters Point Shipyard Parcel A as determined by inspection of the UST by the Department. For permits in the area of San Francisco subject to the requirements of Article 31, such permit application shall not be deemed complete until the department receives written notification from the Director that the applicant has complied with all provisions of Article 31 that are required to be met prior to permit issuance.

(b) Any person required to obtain a UST permit shall submit the information required by the Department, Article 31 and Chapters 6.7 and 6.75 of the California Health and Safety Code (commencing with Section 25280) and implementing regulations adopted by the State Water Resources Control Board and the Health Commission. No permit shall be granted to the owner or operator of a UST unless the applicant demonstrates compliance with this Article and its implementing regulations, Article 31 and all applicable provisions of Chapters 6.7 and 6.75 of the California Health and Safety Code (commencing with Section 25280) and implementing regulations, as the law and regulations may be amended.

(c) All modifications, repairs, closures and removals of USTs shall require approval of the Department, compliance with this Article and its implementing regulations, compliance with Article 31 if the approval is for a site in Hunters Point Shipyard Parcel A, compliance with applicable provisions of Chapters 6.7 and 6.75 of the California Health and Safety Code (commencing with Section 25280) and its implementing regulations, and payment of applicable fees. Any person who performs unauthorized modifications, repairs, removals or closures, or fails to schedule a site inspection with the Department prior to
performing such work shall be assessed additional fees and a site investigation fee, if a site investigation is required, as a penalty. The amount of the additional fees and site investigation fee is specified in Section 1176. A person assessed such fees may appeal the amount of the fee levied by requesting a Director's hearing pursuant to Section 1137.

(d) No permit may be granted pursuant to this Article until the Department has inspected the UST and unless the applicant has corrected any Code violations cited by the Department; the applicant has furnished all requested information and paid the required permit fees; and the applicant demonstrates to the satisfaction of the Director of Health, by the submission of appropriate plans and other required information, that the design and construction of the UST meets all applicable City, State and federal laws and regulatory requirements.

(e) Each permit shall include requirements that the person reimburse the City for extraordinary costs, in addition to applicable permit fees, for inspection and monitoring, administration, incidental expenses and cleanup and remediation costs resulting from releases of hazardous substances or failure by the permittee to handle hazardous substances in accordance with the requirements of this Article. Permits shall not be renewed unless all such costs have been paid to the City.

SEC. 1176.1. FEE ADJUSTMENT.

Fees are calculated based on the current information on file with the San Francisco Department of Public Health. If the fees in a facility's invoice from the Department do not accurately reflect the facility's activities, the facility's business owner or operator, or the owner of real property upon which a business establishment is located, may submit a Fee Adjustment Form, available from the Department, to show the corrected information and activities. In order to have the fees recalculated by the Department, this form must be submitted with fee payment.
Section 3. Effective Date. This ordinance shall become effective 30 days from the date of passage.

Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the Health Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By:  
VIRGINIA DARIO ELIZONDO  
Deputy City Attorney
Ordinance amending the Health Code to require electronic applications for registration of hazardous materials and for underground storage tanks be filed through the California Environmental Reporting System, to eliminate the requirement that registration of hazardous materials plans include a program for reduction of hazardous materials, and to provide for fee adjustment, and making environmental findings.

February 20, 2014 Rules Committee - RECOMMENDED

March 04, 2014 Board of Supervisors - PASSED, ON FIRST READING
   Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

March 11, 2014 Board of Supervisors - FINALLY PASSED
   Ayes: 9 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar and Tang
   Excused: 2 - Wiener and Yee

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 3/11/2014 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

Date Approved

3/11/14