

ARTICLE 8

HAZARDOUS WASTE REDUCTION REQUIREMENTS

Section	Subject Matter
5-8.01	PURPOSE
5-8.02	DEFINITIONS
5-8.03	PHASE I: REQUIREMENTS FOR NEW TIER 1 BUSINESSES
5-8.04	PHASE I: REQUIREMENTS FOR NEW TIER 2 BUSINESSES
5-8.05	PHASE II: REQUIREMENTS FOR EXISTING TIER 1 BUSINESSES
5-8.06	SUBSEQUENT PHASED REQUIREMENTS FOR EXISTING TIER 1 BUSINESSES
5-8.07	PHASE II: REQUIREMENTS FOR EXISTING TIER 2 BUSINESSES
5-8.08	MAINTENANCE OF EFFORT
5-8.09	RECERTIFICATION REQUIREMENTS
5-8.10	ESTABLISHMENT OF TECHNICAL ASSISTANCE PROGRAM
5-8.11	FEES
5-8.12	INSPECTION OF RECORDS
5-8.13	ADMINISTRATION
5-8.14	CIVIL PENALTIES
5-8.15	CRIMINAL PENALTIES
5-8.16	REMEDIES NOT EXCLUSIVE

ARTICLE 8

HAZARDOUS WASTE REDUCTION REQUIREMENTS

SEC. 5-8.01 PURPOSE. This Article is adopted in order to supplement the provisions of the Hazardous Waste Source Reduction and Management Review Act of 1989 (Article 11.9 (commencing with § 25244.12) of Chapter 6.5 of Division 20 of the Health and Safety Code) which requires certain businesses which routinely generate more than 26,460 pounds of hazardous waste or 26.4 pounds of extremely hazardous waste to implement source reduction of hazardous wastes or, where hazardous waste reduction is not feasible or practicable, to encourage the recycling thereof. This Article applies to all businesses which routinely generate hazardous waste and extremely hazardous waste by authorizing imposition of requirements for source reduction of hazardous waste as to such businesses.

SEC. 5-8.02 DEFINITIONS. The following definitions shall govern the interpretation of this Article, unless the context specifically indicates otherwise. Any definition which adopts by reference any provision of a federal or state law or regulation shall be deemed to also incorporate any amendments to such federal or state law or regulation on and after the effective date of such amendment.

- a. Business. The term 'business' refers to any employer, self-employed individual, trust, firm, joint stock company, corporation, partnership, or association which routinely generates any amount of hazardous waste at a non-residential site located within the City of Hayward. 'Business' includes both a non-profit and profit making business. The categories of businesses regulated by this Article are as follows:
 - (1) Tier 1 Business. This is a business which routinely generates 4,000 or more pounds of hazardous waste per year or any amount of extremely hazardous waste per year.
 - (2) Tier 2 Business. This is a business which routinely generates less than 4,000 pounds of hazardous waste per year.
- b. Extremely Hazardous Waste. The definition contained in Health and Safety Code section 25115 is hereby incorporated. Section 25115, as last amended in 1977, is hereby restated as follows: 'Extremely hazardous waste' is any hazardous waste or mixture of hazardous wastes which, if human exposure should occur, may likely result in death, disabling personal injury or serious illness caused by the hazardous waste or mixture of hazardous wastes because of its quantity, concentration, or chemical characteristics.
- c. Hazardous Waste. 'Hazardous waste' means a liquid, gaseous, or solid waste which contains a hazardous material with the present or potential capacity to cause or contribute to serious illness or damage to the environment if it is improperly managed. 'Hazardous waste' includes 'extremely hazardous waste' unless the context specifically indicates otherwise. 'Hazardous waste' includes both non-RCRA and RCRA hazardous wastes:
 - (1) Non-RCRA Hazardous Waste. This is a waste which includes any material

which meets any of the criteria for the identification of a hazardous waste in any regulation or criteria adopted by the State of California's Department of Health Services pursuant to Health and Safety Code sections 25140 and 25141, including but not limited to any waste material designated on the List of Chemical Names or the List of Common Names appearing in Section 66680 of Title 22 of the California Administrative Code, or a waste that is hazardous according to the criteria set forth in Article 11 of Chapter 30 of Division 4 of Title 22 of the California Administrative Code (commencing with section 66693).

- (2) RCRA Hazardous Waste. This is a waste which includes any material listed in the United States Environmental Protection Agency's regulations issued pursuant to the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. § 6901 et seq.), commencing with section 261.1 of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations ('CFR') and appendixes thereto, as amended ('RCRA regulations').
- d. RCRA. 'RCRA' refers to the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. § 6901 et seq.) and the RCRA regulations.
- e. SIC Code. 'SIC Code' means the identification number assigned to specific types of businesses by the Standard Industrial Classification Code.
- f. Source Reduction. 'Source reduction' means any method by which the amount of hazardous material utilized is limited or hazardous waste generation is diminished, including, but not limited to any input change, operational improvement, production process change, or product reformulation. Source reduction does not include any of the following:
 - (1) Actions taken after a hazardous waste is generated.
 - (2) Actions that merely concentrate the constituents of a hazardous waste to reduce its volume or that dilute the hazardous waste to reduce its hazardous characteristics.
 - (3) Actions that merely shift hazardous wastes from one environmental medium to another environmental medium.

SEC. 5-8.03 PHASE I: REQUIREMENTS FOR NEW TIER 1 BUSINESSES. On and after September 1, 1991, the following certification requirements shall be applicable to any new Tier 1 business as a condition of issuance of any City of Hayward administered license or permit necessary to construct, expand, maintain, or operate a business or the Hazardous Materials Storage Permit required by Hayward Municipal Code Chapter 3, Article 8. At such time, the business shall provide the following information:

- a. The name and location of the site at which the business will be located.
- b. The SIC Code of the business activity to be conducted on each site.
- c. Identification of each and every hazardous waste stream which is expected to result from the business' ongoing processes or operations within the City of Hayward.

- d. For each hazardous waste stream identified, the following additional information shall also be provided:
- (1) An estimate of the quantity of hazardous waste anticipated to be annually generated by the business.
 - (2) An evaluation of each potentially applicable hazardous waste source reduction approach available to the business. This evaluation shall consider, at a minimum, each of the following hazardous waste source reduction approaches for each waste stream, whether or not such approach is to be implemented:
 - (i) Input change: A change in the raw material or feedstocks used in a production process or operation so as to reduce, avoid or eliminate the generation of hazardous waste.
 - (ii) Operational improvement: Any method by which the business' manner of operation may be managed so as to reduce, avoid or eliminate the generation of hazardous waste.
 - (iii) Production process change: Any process, method, or technique which is used to produce a product or a desired result, including the return of materials or their components, for reuse within the existing processes or operations, so as to reduce, avoid, or eliminate the generation of hazardous waste.
 - (iv) Product reformulation: Any change in the design, composition, or specifications of end products, including product substitution, so as to reduce, avoid, or eliminate the generation of hazardous waste.
- e. A specification of, and a rationale for, the technically feasible and economically practicable hazardous waste source reduction measures which will be taken by the business with respect to each hazardous waste stream identified. This review and plan shall fully document the reasons for any rejection of any approach considered and rejected as a hazardous waste source reduction measure.
- f. An evaluation which quantifies, to the extent practicable, the expected effects of each of the selected hazardous waste source reduction measures selected.
- g. A timetable by which each of the selected hazardous waste source reduction measures shall be implemented.
- h. Certification of the appropriateness of the hazardous waste generation data and source reduction measures selected by one of the following:
- (1) An engineer who is registered as a professional engineer, who has demonstrated expertise in hazardous waste management, or,
 - (2) An individual who is responsible for the processes and operations of the site, or,
 - (3) A registered environmental assessor who has demonstrated expertise in hazardous waste management.

- i. The name, job title and qualifications of the person who will be primarily responsible for implementing the hazardous waste source reduction methods selected.

SEC. 5-8.04 PHASE I: REQUIREMENTS FOR NEW TIER 2 BUSINESSES. On and after September 1, 1991, any new Tier 2 business which applies for any City of Hayward administered permit necessary to construct, expand, maintain, or operate a business, shall provide a certification, in a form acceptable to the Fire Chief, that the business will implement a program which will implement source reduction and minimize, to the greatest extent economically practicable, the volume or toxicity of hazardous waste that will be generated. Such certification shall be provided as a part of such business' application for the first permit necessary to construct, expand, maintain, or operate such business, including but not limited to the Hazardous Materials Storage Permit required by Hayward Municipal Code Chapter 3, Article 8 and will be subject to review and approval by the Fire Chief.

SEC. 5-8.05 PHASE II: REQUIREMENTS FOR EXISTING TIER 1 BUSINESSES. On or before September 1, 1991, the Fire Department shall designate the first category of SIC codes for existing Tier 1 businesses which shall be required to file the documentation and certification specified in Section 5-8.03 a. through i., inclusive, on or before September 1, 1992. Such certification shall also include base line data, or an estimate where such data is unavailable, of the amount of hazardous waste generated by the business in the twelve-month period immediately preceding the preparation of the certification.

SEC. 5-8.06 SUBSEQUENT PHASED REQUIREMENTS FOR EXISTING TIER 1 BUSINESSES. From time to time, the Fire Chief may also designate additional SIC codes for other types of existing Tier 1 businesses which shall become subject to the same documentation and certification specified in Section 5-8.03 a. through i., inclusive, on or before the deadline designated by the Fire Chief.

SEC. 5-8.07 PHASE II: REQUIREMENTS FOR EXISTING TIER 2 BUSINESSES. Existing Tier 2 businesses shall comply with the documentation and certification requirements set forth in Section 5-8.04 on or before September 1, 1992. In addition, each such business shall also include, as a part of their certification, base line data, or an estimate where such data is unavailable, of the amount of hazardous waste generated by the business in the twelve-month period immediately preceding the preparation of the certification.

SEC. 5-8.08 MAINTENANCE OF EFFORT. Each business which is subject to this Article's certification requirements shall be responsible for the continuing implementation of its approved source reduction plan and the periodic review of such plan's effectiveness.

SEC. 5-8.09 RECERTIFICATION REQUIREMENTS.

- a. Any business subject to the requirements of this Article and the Hazardous Waste Source Reduction and Management Review Act of 1989 shall submit to the Fire Chief a copy of the hazardous waste management performance report required by Health and Safety Code section 25244.20 at the same time as such report is submitted to the State Department of Health Services.
- b. Any other business which is subject to the requirements of this Article shall review its source reduction plan and file an updated certification every four years after such business' initial certification. Each such updated certification shall contain all of the elements set forth in Section 5-8.03 a. through i., inclusive, and shall describe the

effect of implementing the source reduction plan on the annual generation of hazardous waste for each of the years following the filing of the last certification. The recertification shall include the following information.

- (1) Data on the quantity of hazardous waste generated since the cut off point used in the previous certification,
- (2) An assessment of the effect, during the current year, of each hazardous waste source reduction measure implemented since the last certification, and
- (3) An estimate of the expected quantity of hazardous waste which will be generated in the next certification period.

SEC. 5-8.10 ESTABLISHMENT OF TECHNICAL ASSISTANCE PROGRAM.

The Fire Chief is hereby authorized to establish a technical and research assistance program in order to assist the Tier 1 and Tier 2 businesses which are subject to the requirements of this Article.

SEC. 5-8.11 FEES. Fees to cover the costs of reviewing the certifications and providing technical assistance services and administration of this Article shall be adopted pursuant to the Master Fee Resolution.

SEC. 5-8.12 INSPECTION OF RECORDS. Any business subject to this Article shall allow inspection or provide copies of any documents relating to such business' compliance with the hazardous waste source reduction requirements imposed by this Article.

SEC. 5-8.13 ADMINISTRATION. The provisions of this Article shall be administered by the Fire Chief or his or her designee who shall review, evaluate, and comment on the certifications required by this Article. The Fire Chief is hereby authorized to adopt such additional guidelines or standards which are consistent with and necessary to carry out the provisions of this Article.

SEC. 5-8.14 CIVIL PENALTIES. Any business which fails to file any certification or to comply with any duty imposed by this Article shall be subject to a civil penalty of \$100.00 for each day that such business is in non-compliance with this Article.

SEC. 5-8.15 CRIMINAL PENALTIES. A violation of any provision of this Article shall be punishable as provided in Section 1-3.00 of this Code. Each day that a violation or failure to comply continues shall be deemed a separate offense and punishable as such.

SEC. 5-8.16 REMEDIES NOT EXCLUSIVE. The remedies designated in this Article shall be available in addition to any other civil or criminal penalty, remedy, or relief available at law to remedy violations of this Article.