
Chapter 84-63 LAND USE PERMITS FOR DEVELOPMENT PROJECTS INVOLVING HAZARDOUS WASTE OR HAZARDOUS MATERIAL

Article 84-63.2. General

84-63.202 Purpose.

The purpose of this chapter is to promote the health, safety and general welfare of residents and persons in the county by encouraging businesses and other entities, in planning and developing projects involving hazardous material or hazardous waste, to consider factors which involve potential health and safety risks to the surrounding community, and by requiring land use permits for development projects which could significantly and adversely affect public health, safety and the environment. (Ords. 98-48 § 5, 96-50, 96-20, 90-92, 86-100).

84-63.204 Conflict.

This chapter is not intended, and should not be deemed, to prevent or preempt compliance with federal or state laws, regulations, rules or orders, or to excuse compliance with any other county ordinance, including other requirements of this code. (Ords. 98-48 § 5, 96-50, 96-20, 86-100).

Article 84-63.4. Definitions

84-63.402 General.

As used in this chapter, the words and phrases defined in this article shall have the meanings given unless the context otherwise requires. (Ords. 98-48 § 5, 96-50, 96-20).

84-63.404 Baseline period.

“Baseline period” means the consecutive twelve month period of time during which activity is measured for purposes of this chapter. The baseline period shall be any twelve consecutive month period within five years of the date of the submittal of the application that is reflective of a normal year of operation. (Ords. 98-48 § 5, 96-50, 96-20).

84-63.406 Change-in-risk project.

A “change-in-risk project” means a new use of an existing building, structure, or facility, not involving construction other than minor alterations, which use will involve a hazardous material or hazardous waste in a higher hazard category and which use will result in a hazard score higher than the hazard score of the previous use. (Ords. 98-48 § 5, 96-50, 96-20).

84-63.408 Commercial property.

“Commercial property” means all properties with a commercial designation in the general plan including but not limited to the following: commercial, regional commercial, airport commercial, office, and business park. (Ords. 98-48 § 5, 96-50, 96-20).

84-63.410 Development project.

(a) A “development project” means a new permanent building, structure or facility to be constructed that will manage hazardous materials or hazardous waste, or a permanent change-in-risk project.

As used in this section, “permanent” when used to describe a building, structure, or facility, or the new use of an existing building, structure, or facility (change-in-risk project) means that the building, structure, facility or use is intended to be in operation for more than six months.

(b) A “development project” does not include:

(1) Pipelines and related equipment more than three hundred feet from commercial or residential property. Related equipment includes, but is not limited to, items such as valves, fittings, pipe supports, insulation, instrumentation, corrosion protection systems, heat tracing systems, leak containment systems, and fire protection systems. Related equipment does not include storage tanks, storage vessels, process units or plants, mechanical rotating equipment (e.g., pumps, compressors, motors, turbines, internal combustion engines, etc.). However, the zoning administrator may determine, at the zoning administrator’s sole discretion, that minor equipment defined above as not related is exempt from the ordinance.

(2) Any project consisting only of maintenance, repair, and replacement or minor modification of existing equipment provided the storage design capacity is not increased and the hazard category of hazardous material or hazardous waste handled is not increased.

(3) Any transportable treatment unit that has obtained all required permits and is used solely for site remediation or waste treatment purposes, provided the transportable treatment unit will be located on site for a maximum time limit of one year. The director of community development will have the authority to grant a one year time extension if the applicant can demonstrate to the satisfaction of the director that the unit is temporary. Otherwise, a land use permit will be required if the unit will remain on the site beyond the time limit specified above.

(4) Any project for which permit applications have been deemed complete on or before the effective date of this chapter by the Bay Area air quality management district or other government agency with jurisdiction over the project provided the project application has been deemed complete within one calendar year and has completed CEQA documentation.

The proponent of a project described by subsection (4) of subdivision (b) of this section may elect to be subject to the requirements of this chapter in lieu of any requirements in effect prior to the effective date of the ordinance codified in this chapter. (Ords. 98-48 § 5, 96-50, 96-20, 90-92, 86-100).

84-63.412 Dispose.

“Dispose” means to discharge, deposit, inject, dump, or place any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters. (Ords. 98-48 § 5, 96-50, 96-20, 86-100).

84-63.414 Equipment.

“Equipment” means pipes, pumps, vessels and other similar types of apparatus. (Ords. 98-48 § 5, 96-50, 96-20).

84-63.416 Facility.

“Facility” means a group of buildings, structures, or units with the same purpose on contiguous parcels (including parcels separated by a right-of-way, as defined in Section 1002-2.002 of this Code) under common ownership or control. (Ords. 98-48 § 5, 96-50, 96-20).

84-63.418 Finished product.

“Finished product” means a material which can be sold to market as a commodity. (Ord. 98-48 § 5).

84-63.420 Hazardous material.

“Hazardous material” means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment, and includes any material that is listed in the Code of Federal Regulations, Title 49, Section 172.101 (Hazardous Materials Table), as amended from time to time. (Ords. 98-48 § 5, 96-50, 96-20, 86-100).

84-63.422 Hazardous waste.

“Hazardous waste” means any substance which is regulated as a hazardous waste by the California Department of Health Services under 22 California Administrative Code, Division 4, Chapter 30, or defined as a hazardous waste under the Health and Safety Code Section 25117, generally as follows:

(a) “Hazardous waste” means either of the following:

(1) A waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may either:

(A) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness.

(B) Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

(2) A waste which meets any of the criteria for the identification of a hazardous waste adopted by the State Department of Toxic Substance Control pursuant to the Health and Safety Code Section 25141.

(b) “Hazardous waste” includes, but is not limited to, Federal Resource Conservation and Recover Act (“RCRA”) hazardous waste, extremely hazardous waste and acutely hazardous waste. (Ords. 98-48 § 5, 96-50, 96-20, 86-100).

84-63.424 Intermediate product.

“Intermediate product” means a material which requires further process treatment on-site or off-site to produce a finished project which can be sold as a commodity. (Ords. 98-48 § 5).

84-63.426 Manage.

“Manage” means to generate, treat, store, transport, use or dispose of hazardous material or hazardous waste. (Ords. 98-48 § 5, 96-50, 96-20, 86-100).

84-63.428 Process unit.

“Process unit” means a collection of interconnected vessels and equipment designed to separate, purify, react, combine or otherwise chemically or physically alter one or more feed materials, to produce one or more finished or intermediate products and associated wastes, defined by plot or boundary limits. For example, a catalytic cracking unit, a hydrocracking complex, etc. Pieces of a process unit such as pumps, compressors, towers, reactors, vessels, and other such equipment and appurtenances, do not constitute a process unit. (Ord. 98-48 § 5).

84-63.430 Project description.

“Project description” means a written description and explanation of the construction and operation of a development project. A project description shall address all phases of and for the life of the project.

The project description shall include the following information as well as any other information deemed necessary by the community development director for the purpose of determining the hazard score:

- (a) A description of the facility location with respect to major freeways and immediate neighbors, and the size (in square footage or acreage) of the property on which the facility is located;
- (b) An area map showing the facility in relationship to the surrounding community; and
- (c) A description of all significant operations involving hazardous material and/or hazardous waste currently being managed, and/or proposed to be managed, including a brief general history of the facility;
- (d) A summary of the baseline data for all five years and a justification for the selection of the representative baseline year of data used in the calculation of the hazard score.

The community development director may waive the requirement of submitting any or all of the information required by subsections (a) through (d) of this section. (Ords. 98-48 § 5, 96-50, 96-20).

84-63.432 Residential property.

“Residential property” means all properties with a residential designation in the general plan, including but not limited to the following: single-family residential, multiple-family residential, and mobile homes. (Ords. 98-48 § 5, 96-50, 96-20).

84-63.434 Sensitive receptor.

The term “sensitive receptor” includes schools, general acute care hospitals, long-term health care facilities, licensed day care facilities, and similarly less-mobile populations, and

detention facilities including jails, youth camps and other locked facilities. These facilities have more than twelve people. For the purposes of this section, “general acute care hospital” has the meaning set forth in Health and Safety Code Section 1250(a), “long term health care facility” has the meaning set forth in Health and Safety Code Section 1418(a), and “child day care facility” has the meaning set forth in Health and Safety Code Section 1596.750. “School” means any school used for the purpose of the education of more than twelve children in kindergarten or any grades one through twelve, inclusive. (Ords. 98-48 § 5, 96-50, 96-20).

84-63.436 Store.

“Store” means an act to contain hazardous waste or hazardous material for any period of time in such a manner as not to constitute disposal of such hazardous waste or hazardous material. (Ords. 98-48 § 5, 96-50, 96-20, 91-49, 86-100).

84-63.438 Transport.

“Transport” or “transportation” means an act to move hazardous waste or hazardous material by truck, rail, marine vessel or pipelines. (Ords. 98-48 § 5, 96-50, 96-20, 86-100).

Article 84-63.6. Applicability

84-63.602 Applicability.

The provisions of this chapter shall be applicable in any nonagricultural zoning district. (Ords. 98-48 § 5, 96-50, 96-20, 86-100).

84-63.604 Exemptions.

The following projects and structures are exempt from the provisions of this chapter:

(a) Any project built solely to comply with federal, state, regional or local agency enforcement orders under a compliance time schedule that precludes timely review under this chapter. This section is primarily intended to allow exemptions for compliance with laws, regulations, rules, or administrative or judicial orders such as nuisance abatement orders or other short-term or immediately necessary actions. This section is not intended to allow automatic exemptions for projects being undertaken to comply with changed federal, state, regional or local laws. A facility claiming an exemption under this section, must file a copy of the enforcement order and proposed project description within thirty days of receipt of the order.

(b) If any building, structure, or facility is destroyed or damaged by disasters such as earthquakes, floods, offsite fires, or an act of God or public enemy, the facility may be rebuilt under the following conditions:

(1) The rebuilt project is used for the same purpose as the destroyed or damaged project;

(2) The rebuilt project complies with all environmental regulations in effect at the time of rebuilding, including best available control technology (BACT) or at least the same level of control that previously existed, whichever provides the greater level of protection to the public;

(3) The rebuilt project does not have a higher hazard score than the destroyed or damaged project (both rebuilt and destroyed or damaged project to be scored as if they are new);

(4) The hazard category of chemicals used in the rebuilt project is not greater than used by the destroyed or damaged project;

(5) Construction is commenced within one year unless an extension is granted by the community development director;

(6) The rebuilt project is at least three hundred feet away from the nearest residential property or sensitive receptor and no closer to the nearest residential property or sensitive receptor than the destroyed or damaged project; and

(7) The rebuilt project will not manage hazard category A materials in quantities greater than the destroyed or damaged project, will not manage hazardous wastes in quantities greater than the destroyed or damaged project, will not manage hazard category B materials in quantities greater than ten percent more than the amount managed by the destroyed or damaged project, and will not manage hazard category C materials in quantities greater than ten percent more than the amount managed by the destroyed or damaged project.

(c) A development project in which both the size, as defined in Section 84-63.1012 and the monthly transportation quantity are less than:

(1) For hazard category C materials: four thousand tons;

(2) For hazard category B materials: five tons;

(3) For hazard category A materials: the quantity specified as the threshold planning quantity on the extremely hazardous materials list (Appendix A to 40 C.F.R. Chapter I, Subchapter J, Part 355, as amended from time to time), or five hundred pounds, whichever is less. (Ords. 98-48 § 5, 96-50, 96-20, 90-92, 86-100).

Article 84-63.8. Standards and Procedures

84-63.802 Application for applicability determination--Exemption.

Any person proposing a development project which may be used to manage hazardous waste or hazardous material shall apply to the community development director for review and a determination whether a land use permit may be required under Article 84-63.10 or whether the project is exempt under Sections 84-63.604(a) or (b) or 84-63.606. Projects exempt under Section 84-63.604(c) are not required to submit an application pursuant to this section. If the hazard score of a project is sixty-nine or less and the project does not increase the amount of hazardous waste or hazardous material managed as compared to the baseline of the last three years, a determination of noncoverage and an application therefor are not required.

The application shall include all information necessary to complete and verify the hazard score of the project, such as chemical identification, distances to nearest receptors, transportation routes, and a summary of the five year baseline data. The application shall be accompanied by all fees established by the board of supervisors. (Ords. 98-48 § 5, 96-50, 96-20, 91-49, 90-92, 86-100).

84-63.804 Application--Review--Determination.

No later than ten calendar days after receipt of an application, or the submittal of additional information, the community development director shall inform the applicant in writing that the application is complete or shall inform the applicant what additional information is required. Within twenty calendar days of the application being deemed complete, the community development director shall issue a written determination of noncoverage pursuant to Section 84-63.806, an exemption pursuant to Section 84-63.604(a) or (b), or a determination that a land use permit is required pursuant to Section 84-63.1002. (Ords. 98-48 § 5, 96-50, 96-20, 90-92).

84-63.806 Determination of noncoverage.

Upon determining that a proposed project has a hazard score up to and including seventy-nine or that the project is exempt pursuant to Section 84-63.604, the community development director shall issue a determination of noncoverage or exemption. A determination of noncoverage for projects with a hazard score between seventy and seventy-nine, inclusive, means that the project is not subject to the requirements of Article 84-63.10, but is subject to Sections 84-63.808 and 84-63.810. Projects with a hazard score below sixty-nine and projects which are exempt pursuant to Section 84-63.604 are not subject to the requirements of Sections 84-63.808 and 84-63.810. (Ords. 98-48 § 5, 96-50, 96-20).

84-63.808 Determinations--Public notice.

All determinations of noncoverage made pursuant to Section 84-63.806 shall be summarized on an agenda for the county zoning administrator within ten calendar days of issuance of the determination. (Ords. 98-48 § 5, 96-50, 96-20, 91-49, 90-92, 86-100).

84-63.810 Determinations--Further public notice.

For projects with a point assignment between seventy and seventy-nine, inclusive, within five working days of issuing a determination of noncoverage, the community development director shall mail notice on the date of the determination to all organizations and individuals who have previously submitted a written request for such notice. The community development director shall publish a four-inch by six-inch advertisement in a newspaper of general circulation within ten calendar days of issuing a determination of noncoverage. The notices required by this section shall state the name of the applicant, briefly describe the project, provide the names and phone numbers of a representative of the community development department and a representative of the applicant who will be available to answer questions about the project, and shall state the date by which an appeal must be filed. (Ords. 98-48 § 5, 96-50, 96-20, 91-49, 90-92).

84-63.812 Appeals.

Any appeal of a determination of noncoverage shall be filed within ten calendar days of the date the determination is listed on the zoning administrator's agenda or ten calendar days from the date of publication pursuant to Section 84-63.810, whichever provides the longer period of appeal.

Appeals from a determination of noncoverage shall be heard by the board of supervisors.

Except as expressly provided in this section, appeals from all decisions and determinations made pursuant to this chapter shall be governed by the land use permit provisions of Article 26-2.24 and are subject to the provisions of Article 26-2.30. (Ords. 98-48 § 5, 96-50, 96-20, 86-100).

Article 84-63.10. Land Use Permits--When Required

84-63.1002 Hazard score--Permit required.

Unless otherwise exempt from the requirements of this chapter, a land use permit shall be required for a development project proposed for the management of hazardous material and/or hazardous waste if any of the following apply:

- (a) The development project obtains a hazard score of eighty or more pursuant to the formula set forth in Section 84-63.1004; or
- (b) For hazard category A materials, the development project stores twice the quantity specified as the threshold planning quantity on the extremely hazardous materials list (Appendix A of 40 Code of Federal Regulations Chapters I, Subchapter J Part 355), as amended from time to time, or two thousand pounds, whichever is less; or
- (c) For hazard category A or B materials, the development project will result in a new process unit(s) unless the process unit complies with Section 84-63.1004(d)(1) through (d)(6), Credit for reductions or projects to be closed. Modifications to an existing process unit do not constitute a new process unit; or
- (d) For hazard category B materials, any development project that has a fill to the maximum capacity of forty thousand tons or more unless the development project complies with Section 84-63.1004(d)(1) through (d)(6), Credit for reductions or projects to be closed. (Ords. 98-48 § 5, 96-50, 96-20).

84-63.1004 Hazard score.

(a) Formula. The hazard score of a proposed development project shall be determined pursuant to the following formula:

$$[(T + C + P) \times H] + D + A;$$

where the following symbols have the following designations:

- “T” refers to the point assignment for “Transportation Risk”;
- “D” refers to the point assignment for “Community Risk - Distance from Receptor”;
- “C” refers to the point assignment for “Community Risk - Type of Receptor”;
- “A” refers to the point assignment for “Facility Risk - Size of Project - Total Amount”;
- “P” refers to the point assignment for “Facility Risk - Size of Project - Percent Change”;

and

“H” refers to the point assignment for “Hazard Category of Material or Waste.”

(b) Project Hazard Score. If more than one category of hazardous material or hazardous waste is used, the formula set forth in this section will be used to calculate a separate score for each material category. The material hazard category which results in the highest hazard score for the project will be used.

(c) Point Assignment. The factors set forth in subdivision (a) of this section, shall have the following point assignments:

TRANSPORTATION RISK (T)	POINTS
Truck — residential/commercial (>25% increase or new)	10
Truck — residential/commercial (>5 — 25% increase)	9
Truck — industrial (>25% increase or new)	8
Truck — industrial (>5 — 25% increase)	7
Rail — (>25% increase or new)	6
Rail — (>5 — 25% increase)	5
Marine vessel — (>5% increase)	3
Pipeline — (>5% increase)	1
0 — 5% increase	0

COMMUNITY RISK (T)	POINTS
Distance of project from receptor (D):	
0 — 300 feet	30
>300 — 400 feet	29
>400 — 550 feet	28
>550 — 700 feet	27
>700 — 900 feet	26
>900 — 1,200 feet	25
>1,200 — 1,500 feet	24
>1,500 — 1,800 feet	23
>1,800 — 2,100 feet	22
>2,100 — 2,500 feet	21
>2,500 — 2,800 feet	20
>2,800 — 3,200 feet	19
>3,200 — 3,500 feet	18
>3,500 — 3,800 feet	17
>3,800 — 4,000 feet	16
>4,000 — 4,200 feet	15
>4,200 — 4,500 feet	14
>4,500 — 4,800 feet	13
>4,800 — 5,400 feet	12
>5,400 — 5,700 feet	11
>5,700 — 6,000 feet	10
>6,000 — 6,500 feet	9
>6,500 — 7,300 feet	8
>7,300 — 8,000 feet	7
>8,000 — 8,600 feet	6
>8,600 — 10,000 feet	5
>10,000 — 11,000 feet	4
>11,000 — 12,500 feet	3
>12,500 — 14,000 feet	2
>14,000 — 15,840 feet	1

Type of Receptor (C)	POINTS
Sensitive Receptor	7
Residential Receptor	5
Commercial Receptor	4

FACILITY RISK: SIZE OF PROJECT	
Total Amount of Change, tons	POINTS
(Conversion to tons; 1 ton = 2,000 pounds) (A)	
>40,000	30
>32,000 — 40,000	29
>18,000 — 32,000	28
>10,000 — 18,000	27
>6,000 — 10,000	26
>4,000 — 6,000	25
>2,100 — 4,000	24
>1,200 — 2,100	23
>750 — 1,200	22
>400 — 750	21
>200 — 400	20
>150 — 200	19
>90 — 150	18
>50 — 90	17
>30 — 50	16
>20 — 30	15
>10 — 20	14
>6 — 10	13
>4 — 6	12
>2 — 4	11
>1 — 2	10
>0.8 — 1	9
>0.5 — 0.8	8
>0.35 — 0.5	7
>0.25 — 0.35	6
>0.20 — 0.25	5
>0.18 — 0.20	4
>0.14 — 0.18	3
>0.12 — 0.14	2
>0.10 — 0.12	1
no change (0.10 or less)	0

Percent Change (P)	POINTS
New	6
>200%	5
>100% — 200%	4
>50% — 100%	3
>10% — 50%	2
>1% — 10%	1
0% — 1%	0

HAZARD CATEGORY OF MATERIAL (H)	POINTS
Category A	5
Category B	3
Category C	1

(d) Credit for Reductions or Projects to be Closed. A development project that would have a hazard score of eighty or more as determined by the formula in this section shall be entitled to a reduction credit for project closures and/or reductions in accordance with the criteria set forth in this subdivision. Reduction credit shall be given if the community development director determines that the applicant will concurrently close another project or reduce its operations and finds that all of the following criteria are met:

(1) The project to be closed or reduced is in the same facility in which the development project is proposed;

(2) The project to be closed or reduced is currently in operation and has been in operation for at least three years prior to the date of application, during which period the production schedule has been reflective of a normal production schedule;

(3) The project to be closed or reduced is the direct result of the proposed development project;

(4) The project to be closed or reduced has a higher hazard score than the proposed development project;

(5) The hazard category of the material or waste in the development project will be no greater than the hazard category of the material or waste in the project to be closed or reduced; and

(6) The development project will be more than three hundred feet from the property line of the nearest residential property or sensitive receptor.

The hazard score for the project to be closed shall also be determined by the formula set forth in subsections (a) and (b) of this section and pursuant to the provisions of this article. In determining the hazard score for the project to be closed or reduced, said project shall be deemed a new project.

The hazard score of the development project shall be subtracted from the hazard score of the project to be closed or reduced. The resulting difference will then be subtracted from the hazard score of the development project to obtain a hazard score adjusted for the closure or reduction. The adjusted hazard score shall be the basis for determining whether a land use permit shall be required under this chapter.

A determination by the community development director that a project is not subject to the land use permit requirement of this chapter as a result of credit afforded for a project closure or reduction shall be reported to the zoning administrator pursuant to Section 84-63.808 and shall be subject to the public notification requirements set forth in Section 84-63.801.

(e) Closure, Reduction Required. Projects proposed for closure or reduction for which closure or reduction credit was afforded under this section shall be closed or reduced as proposed within one year of completion of the development project. This subsection (e) applies only in cases where a land use permit would have been required but for the closure or reduction credit afforded under this section. (Ords. 98-48 § 5, 96-50, 96-20).

84-63.1006 Determination of transportation risk.

The transportation risk point assignment shall be calculated based upon planned total quantities of materials in a hazard category, measured in tons per year for each hazard category proposed. The transportation risk point assignment shall be calculated for each mode of transportation proportionally within a single hazard category. That transportation point assignment shall be compared by hazard category with the total amount of material in the hazard category transported during the baseline period in order to obtain the percent change in Section 84-63.1004(b), Transportation risk.

For purposes of determining whether truck transportation is through residential/commercial or industrial areas, the shortest legal route from the closest two-lane (or larger) freeway shall be considered. If the route used in the county does not traverse a two-lane (or larger) freeway, the entire route shall be considered. (Ords. 98-48 § 5, 96-50, 96-20).

84-63.1008 Determination of community risk--Distance to receptor.

“Distance to receptor” shall be the shortest distance between an exterior wall or other part of the development project and the property line of the residential property, commercial property or the sensitive receptor used to determine the hazard score of a development project. (Ords. 98-48 § 5, 96-50, 96-20).

84-63.1010 Determination of community risk--Type of receptor.

A hazard score shall be developed for each type of receptor (residential property, commercial property and sensitive receptor) within three miles of the development project based upon the distance of the parcel of each type of receptor that is closest to the development project. The receptor that produces the highest hazard score shall be used to determine the hazard score of the development project. Receptors more than three miles from a development project shall not be considered. (Ords. 98-48 § 5, 96-50, 96-20).

84-63.1012 Determination of project risk--Size.

The size of a development project shall be measured in terms of tons of hazardous material and/or hazardous waste stored as a result of the development project, based upon the fill-to-the-maximum capacity of the development project, including amounts stored in tanks; reactors; columns; process lines; tank cars, tank trucks or rail cars when connection to process equipment; or any other receptacle used for the containment of hazardous materials and/or hazardous wastes. The amount of material in hazard categories A, B, or C to be added to the site as a result of the development project will be used to determine the total amount of change. If more than one category of hazardous material is used, the amounts of materials (A, B, or C) shall be used with the respective hazard category in the formula in Section 84-63.1004.

The specific gravity of hazardous materials or hazardous wastes may be required to calculate the number of tons (or pounds) of hazardous materials and/or hazardous waste managed at the development project. The standard of two thousand pounds equaling one ton shall be used.

The point assignment for storage of containerized material in buildings, such as labs or warehouses, shall be based upon the maximum anticipated amount of materials for each hazard category as a result of the development project. (Ords. 98-48 § 5, 96-50, 96-20).

84-63.1014 Determination of project risk--Percent change.

The percent change of a hazard category shall be determined by comparing the amounts of materials for the respective hazard categories A, B, or C to be added to the site as a result of the development project to the total amount of all materials for the respective hazard categories A, B, or C handled at the site from the baseline period. (Ords. 98-48 § 5, 96-50, 96-20).

84-63.1016 Determination of hazard category.

(a) Method of Determination. The hazard category of a material or waste shall be determined pursuant to this section.

(1) The primary method of determining the material hazard category of a hazardous waste or material shall be by reference to the Winter 1994 version of the U.S. Department of Transportation ("D.O.T.") Code of Federal Regulations, Title 49 ("40 CFR"), Section 172.101, Hazardous Materials Table. From columns (3) and (5), extract the "Hazard Class or Division" and "Packing Group" information, then proceed to 49 CFR 173.2 to determine the "Name of Class or Division." Proceed to subdivision (c) of this section to determine the material hazard category as either A, B or C. If a material is listed in 49 CFR 172.101 more than one, the rating that results in the highest hazard category shall be used. The hazard category of a mixture is determined according to its common name as defined in Title 49.

(2) Where a hazardous material, waste, or mixture is not referenced in 49 CFR 172.101, and the hazard category cannot be determined using the primary method, refer to the manufacturer's MSDS for the D.O.T. "Hazard Class or Division," "Packing Group" and "Name of Class or Division." Proceed to subdivision (c) of this section to determine the material hazard category as either A, B or C.

(3) Where the preceding methods are not successful, the Contra Costa County health services director or his designee shall be responsible for determining a material's hazard category.

(4) Regardless of the hazard category obtained using the methods set forth above, materials with the word "poison" in column (6) of 49 CFR 172.101, Methyl chloride, and the metals Antimony, Mercury, Lead, Arsenic, Thallium and Cadmium and their compounds, shall be hazard category A materials, and denatured alcohol and methanol shall be hazard category B materials for purposes of this chapter.

(b) Exclusions. Regardless of the hazard category obtained using the methods set forth in subdivision (a) of this section, hot coke, hot coal briquettes, and materials not regulated by D.O.T. or which have no D.O.T. hazard class or division are not regulated by this chapter.

(c) Hazard Categories.

Hazard Category A Materials

I. Forbidden Materials

As referenced in 49 CFR 173.21 and 173.54.

II. Explosives and Blasting Agents

Class 1, as defined in 49 CFR 173.50(b)(1) through 173.50(b)(6).

III. Reactive Materials

- A. Air Reactive Materials -- Class 4, Division 4.2 as defined in 49 CFR 173.124(b)(1) and (2).
- B. Water Reactive Materials -- Class 4, Division 4.3 as defined in 49 CFR 173.124(c).
- C. Organic Peroxides -- Class 5, Division 5.2 as defined in 49 CFR 173.128.

IV. Radioactive Materials

Class 7 as defined in 49 CFR 173.403(y).

V. Oxidizers D.O.T. Packing Group I

Class 5, Division 5.1 as defined in 49 CFR 173.127(a) when Packing Group I is required per 49 CFR 173.127(b)(2)(I).

VI. Poisons, D.O.T.

- A. Poisons, Class 6, Division 6.1 as defined in 49 CFR 173.133 (applies to all hazard zones).
- B. Infectious Substances, Class 6, Division 6.2 as defined in 40 CFR 173.134.

VII. Poison Gas

Class 2, Division 2.3 as defined in 49 CFR 173.115(c).

Hazard Category B Materials

VIII. Flammable Liquids

Class 3 Packaging Groups I and II as defined in 49 CFR 173.120(a).

IX. Flammable Solids

Class 4, Division 4.1 as defined in 49 CFR 173.124(a).

X. Oxidizers, D.O.T. Packing Group II

Class 5, Division 5.1 as defined in 49 CFR 173.127(a) when Packing Group II is required by 49 CFR 173.127(b)(2)(ii).

XI. Flammable Gases

Class 2, Division 2.1 as defined in 49 CFR 173.115(a).

XII. Corrosives, D.O.T. Packing Group I or II

Class 8 Packaging Groups I or II as defined in 49 CFR 173.136(a) and 173.137(a) and (b).

Hazard Category C Materials

XIII. Nonflammable Compressed Gases

Class 2, Division 2.2 as defined in 49 CFR 173.115(b).

XIV. Combustible Liquids

Class 3 Packaging Group III as defined in 49 CFR 173.120(b).

XV. Miscellaneous Hazardous Materials

Class 9 as defined in 49 CFR 173.155.

XVI. Oxidizers D.O.T. Packing Group III

Class 5, Division 5.1 as defined in 49 CFR 173.127(a) when Packing Group III is required per 49 CFR 173.127(b)(2)(iii).

XVII. Corrosives D.O.T. Packing Group III

Class 8 Packing Group III as defined in 49 CFR 173.136(a) and 173.137(c).

(Ords. 98-48 § 5, 96-50, 96-20).

Article 84-63.14. Offsite Hazardous Waste Facility Compliance With County Hazardous Waste Management Plan

84-63.1402 Authority.

This article is enacted pursuant to Health and Safety Code Sections 25135.4 and 25135.7, concerning the siting of off-site hazardous waste facilities. (Ords. 98-48 § 5, 96-50, 96-20, 90-73).

84-63.1404 Definitions.

(a) General. Unless otherwise specified in this section or indicated by the context, the terms used in this article have the meanings ascribed to them in Health and Safety Code Chapter 6.5 (Section 25100 et seq.).

(b) "County hazardous waste management plan" means the county hazardous waste management plan adopted by the board of supervisors on August 29, 1989 and amended by the board of supervisors on January 30, 1990, approved by a majority of the cities within the county which contain a majority of the population of the incorporated area, and approved by the State Department of Health Services on February 28, 1990, as said plan is amended from time to time.

(c) "Hazardous waste facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for the treatment, transfer, storage, resource recovery, disposal, or recycling of hazardous waste. A hazardous waste facility may consist of one or more treatment, transfer, storage, resource recovery, disposal, or recycling hazardous waste management units, or combinations of these units.

(d) "Offsite hazardous waste facility" means a hazardous waste facility at which either or both of the following occur:

(1) Hazardous waste that is produced offsite is treated, transferred, stored, disposed or recycled.

(2) Hazardous waste that is produced onsite is treated, transferred, stored, disposed or recycled and the hazardous waste facility is not owned by, leased to or under the control of the producer of the hazardous waste. (Ords. 98-48 § 5, 96-50, 96-20, 90-73).

84-63.1406 County hazardous waste management.

All land use permit, variance or other land use entitlement granted for the operation or expansion of an offsite hazardous waste facility shall be consistent with the portions of the county hazardous waste management plan which identify siting criteria, siting principles or other policies applicable to hazardous waste facilities. Before granting the application, the division of the planning agency hearing the matter initially or on appeal shall find that the application complies with the applicable siting criteria, siting principles and other policies identified in the county hazardous waste management plan, and that the proposed offsite

hazardous waste facility is consistent with the county hazardous waste management plan. (Ords. 98-48 § 5, 96-50, 96-20, 90-73; Health & Safety Code, §§ 25135.4, 25135.7).

84-63.1408 Exclusion.

The requirements of this article do not apply to projects which are exempt projects under Section 84-63.604. (Ords. 98-48 § 5, 96-50, 96-20, 90-73).