

File No. 220990 Committee Item No. 1
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Land Use and Transportation Committee Date October 24, 2022

Board of Supervisors Meeting Date _____

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Completed by: Erica Major Date October 20, 2022

Completed by: Erica Major Date _____

1 [Authorizing the Department of Public Health to Enter into Hazardous Waste Remedial Action
2 Agreements]

3 **Resolution authorizing the County Health Officer, the Department of Public Health’s**
4 **Director of Environmental Health Branch, or their respective designees, to enter into**
5 **remedial action agreements and oversee remedial investigations and remedial actions**
6 **at hazardous waste release sites, pursuant to California Health and Safety Code,**
7 **Section 101480.**

8
9 WHEREAS, Sections 101480 through 101490 of the California Health and Safety Code
10 authorize a responsible party and a local health department to enter into written remedial
11 agreements for the supervision of the cleanup of simple waste release; and

12 WHEREAS, The California Legislature amended Section 101480 of the California
13 Health and Safety Code, effective January 1, 2022; and

14 WHEREAS, Such amendment requires the Board of Supervisors to grant authority to
15 the Local Officer to enter into a remedial action agreement and oversee a remedial
16 investigation or remedial action, or both, at a hazardous waste release site; and

17 WHEREAS, The California Health and Safety Code, Sections 101480 through 101490,
18 define a Local Officer as the County Health Officer, City Health Officer, or County Director of
19 Environmental Health now, therefore, be it

20 RESOLVED, That the Board of Supervisors authorizes the County Health Officer or the
21 Health Officer’s designee and the Department of Public Health’s Director of Environmental
22 Health Branch or the Director’s designee to enter into remedial action agreements and
23 oversee remedial investigations and actions, pursuant to California Health and Safety Code,
24 Section 101480.



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HEALTH AND SAFETY CODE - HSC

DIVISION 101. ADMINISTRATION OF PUBLIC HEALTH [100100 - 101997] (*Division 101 added by Stats. 1995, Ch. 415, Sec. 3.*)

PART 3. LOCAL HEALTH DEPARTMENTS [101000 - 101490] (*Part 3 added by Stats. 1995, Ch. 415, Sec. 3.*)

CHAPTER 4. Additional Administrative Provisions [101325 - 101490] (*Chapter 4 (1st of two) added by Stats. 1995, Ch. 415, Sec. 3.*)

ARTICLE 5. Released Waste [101480 - 101490] (*Article 5 added by Stats. 1996, Ch. 1023, Sec. 303.3.*)

101480. (a) For purposes of this article, the following definitions apply:

- (1) "Department" means the Department of Toxic Substances Control.
- (2) "Local officer" means a county health officer, city health officer, or county director of environmental health who has been granted authority by the city's or county's governing body to enter into a remedial action agreement and oversee a remedial investigation or remedial action, or both, at a waste release site.
- (3) "Operation and maintenance" means those activities initiated or continued at a waste release site following completion of a remedial action deemed necessary to protect public health, safety, or the environment, to maintain the effectiveness of the remedial action at the waste release site, or to achieve or maintain the cleanup goals established in a remedial action agreement pursuant to paragraph (1) of subdivision (c).
- (4) "Person" has the same meaning as set forth in Section 25118.
- (5) "Regional water quality control board" means an entity formed pursuant to Section 13201 of the Water Code.
- (6) "Release" has the same meaning as set forth in Section 25320.
- (7) "Remedial action" or "remediation" means any action taken by a responsible party to clean up a released waste, to abate the effects of a released waste, or to prevent, minimize, or mitigate damages that may result from the release of a waste. "Remedial action" includes the restoration, rehabilitation, or replacement of any natural resource damaged or lost as a result of the release of a waste.
- (8) "Remedial action agreement" means an agreement between a local officer and a responsible party pursuant to which the local officer oversees the investigation, remediation, or operation and maintenance of a waste release site that includes the information set forth in paragraph (1) of subdivision (c).
- (9) "Remedial investigation" or "investigation" means those actions deemed necessary to determine the full extent of a waste release at a site, identify the public health and environmental threat posed by the waste release, collect data on possible remedies, and otherwise evaluate the waste release site for purposes of developing a remedial action.
- (10) "Responsible party" means a person who, pursuant to this section, requests a local officer to oversee a remedial investigation or remedial action, or both, with respect to a released waste.

(11) "State board" means the State Water Resources Control Board.

(12) "Waste" has the same meaning as set forth in subdivision (b) of Section 101075.

(b) Whenever a release of waste occurs and remedial action is required, and that waste release site is not being overseen by the department or the regional water quality control board, a responsible party may request the local officer to oversee the remedial investigation or remedial action, or both. A local officer may agree to oversee the remedial investigation or remedial action, or both, if the local officer determines, based on available information, that staff resources and the requisite technical expertise and capabilities are available to the local officer to adequately oversee the remedial investigation or remedial action, or both, and if the local officer has met both of the following requirements:

(1) The local officer has complied with the notification requirements in Section 101487.

(2) The local officer has, within the past 12 months, submitted to the department and the regional water quality control board all of the following information:

(A) A description of the technical expertise and staff resources available to the local officer to oversee the investigation or remediation, or both, of waste release sites, including the résumés of appropriately licensed professionals, licensed pursuant to Chapter 7 (commencing with Section 6700) of, or Chapter 12.5 (commencing with Section 7800) of, Division 3 of the Business and Professions Code. The local officer shall submit to the department and the regional water quality control board information on any substantial changes to staff resources described in this subparagraph within 30 days of those changes.

(B) Certification that all applicable requirements of this code and Division 7 (commencing with Section 13000) of the Water Code will be adhered to and that, if enforcement action is necessary, the appropriate enforcement action will be conducted. If the local officer lacks the necessary enforcement authority, the local officer shall notify the department and the regional water quality control board regarding the status of the case and the need for enforcement assistance.

(C) Attestation that accurate records will be maintained and kept up to date, including through the use of the state board's GeoTracker electronic data management system, and kept in compliance with the electronic reporting requirements in Chapter 30 (commencing with Section 3890) of Division 3 of Title 23 of, and Subdivision 2 of Division 3 of Title 27 of, the California Code of Regulations, or any successor regulations.

(c) (1) Oversight of a remedial investigation or remedial action, or operation and maintenance of a waste release site, carried out under this section shall be conducted only pursuant to a remedial action agreement entered into by a local officer and a responsible party. The remedial action agreement shall specify all of the following information:

(A) The scope of the proposed remedial investigation the responsible party will carry out to determine the type and extent of contamination caused by the released waste that is the subject of the remedial investigation or remedial action.

(B) Proposed remedial actions.

(C) Reporting and public notification requirements.

(D) Actions that may be taken in the event of the responsible party's noncompliance with state or local agency directives.

(E) The cleanup goals that the local officer determines are necessary to comply with applicable provisions of this code and the Water Code, and all associated regulations, in order to protect human health, safety, or the environment, and that, if met, constitute a permanent remedy to the release of the waste.

(2) The local officer and the responsible party may amend the remedial action agreement to update the information outlined in paragraph (1) as additional information about the waste release site becomes available.

(d) A local officer who enters into a remedial action agreement, as described in paragraph (1) of subdivision (c), may, after giving a responsible party at least 30 days' notice, withdraw from the agreement at any time for one or more of the following reasons:

- (1) The responsible party is not in compliance with the remedial action agreement.
- (2) Staff resources, technical expertise, or technical capabilities are not available to the local officer to adequately oversee the remedial investigation or remedial action, or both.
- (3) The release of the waste that is the subject of the remedial investigation or remedial action, or both, is of a sufficiently complex nature or may present such a significant potential hazard to human health, safety, or the environment that it should be referred to the department or the regional water quality control board.

(e) (1) Within 30 days of receiving a notification from a local officer pursuant to Section 101487, the department or the regional water quality control board shall inform the local officer in writing if the department or the regional water quality control board will retain oversight authority for the waste release site.

(2) If the department or the regional water quality control board informs a local officer that they will retain oversight authority for the waste release site, the response described in paragraph (1) shall include all of the following:

- (A) A brief description of the department's or the regional water quality control board's reasons for retaining oversight authority.
- (B) The name, phone number, and email address of the technical staff at the department or the regional water quality control board who made the determination.
- (C) The internet website address of the electronic data management system where public records will be posted regarding the waste release site.

(f) (1) If the department or the regional water quality control board informs a local officer that they will retain oversight authority for the waste release site pursuant to this section, the local officer shall not enter into a remedial action agreement for that site.

(2) If the department and the regional water quality control board notify a local officer that they will not retain oversight authority for the waste release site pursuant to this section, through either a written statement or by not responding within 30 days from the date of the notification from a local officer pursuant to Section 101487, the local officer may enter a remedial action agreement for the site and, upon doing so, shall establish a global identification number and public record for the site in the state board's GeoTracker electronic data management system and shall upload a copy of the agreement under that global identification number.

(g) The department or a regional water quality control board shall not assume regulatory oversight authority over a waste release site for which they have received a notification from a local officer pursuant to Section 101487 or after a remedial action agreement has been entered into unless the department or the regional water quality control board makes one or more of the following determinations:

- (1) The remedial action being proposed for the waste release site will be insufficient to address the contamination caused by the released waste that is the subject of the remedial action.
- (2) The staff resources, technical expertise, or technical capabilities described in subparagraph (A) of paragraph (2) of subdivision (b) are no longer available to the local officer.
- (3) The responsible party is not in compliance with the remedial action agreement and the local officer lacks the necessary enforcement authority to ensure compliance with the remedial action agreement.
- (4) The release of the waste that is the subject of the remedial investigation or remedial action, or both, is of a sufficiently complex nature or may present such a significant potential hazard to human health, safety, or the environment that it should be handled by the department or the regional water quality control board.

(h) (1) After a remedial action agreement has been entered into by a local officer, the department or a regional

water quality control board shall notify the local officer in writing if the department or the regional water quality control board will assume oversight authority over the waste release site pursuant to the authority referenced in Section 101485.

(2) The notification described in paragraph (1) shall occur with a minimum 30 days' notice, after which the remedial action agreement shall no longer be valid.

(3) Nothing in the notification described in paragraph (1) shall preclude a local officer from recovering any costs from the responsible party that the local officer incurred under the terms of the remedial action agreement before its termination.

(i) A local officer shall ensure compliance with the electronic reporting requirements of Chapter 30 (commencing with Section 3890) of Division 3 of Title 23 of, and Subdivision 2 of Division 3 of Title 27 of, the California Code of Regulations, or any successor regulations. The electronic reporting requirements shall be included as a provision of a remedial action agreement.

(j) (1) At least 30 days before certifying that the cleanup goals identified in the remedial action agreement were accomplished pursuant to paragraph (2), a local officer shall conduct a public notification process that shall include, at a minimum, both of the following:

(A) Notifying the department, the regional water quality control board, agencies with authority to issue building permits for land affected by the waste release, owners and occupants of the property impacted by the waste release, and the owners and occupants of all parcels adjacent to the waste release site.

(B) Posting the public notice on the state board's GeoTracker electronic data management system under the global identification number established for the waste release site.

(2) After determining that a responsible party has completed the actions required by the remedial action agreement and that a permanent remedy for the release of waste has been achieved, the local officer shall provide the responsible party with a document that describes the release of waste that occurred and the remedial action taken, and certifies that the cleanup goals embodied in the remedial action agreement were accomplished. The local officer shall post the document on the state board's GeoTracker electronic data management system under the global identification number established for the waste release site.

(3) (A) Paragraphs (1) and (2) apply to a remedial action agreement entered into on or after January 1, 2022, and an open remedial action agreement entered into before January 1, 2022.

(B) A local officer shall ensure that a global identification number and public record is established in the state board's GeoTracker electronic data management system for a waste release site for which the local agency is overseeing a remedial action or remedial investigation, or both, pursuant to an open remedial action agreement entered into before January 1, 2022. Commencing on January 1, 2022, the local agency shall maintain all documents related to that waste release site in compliance with the electronic reporting requirements in Chapter 30 (commencing with Section 3890) of Division 3 of Title 23 of, and Subdivision 2 of Division 3 of Title 27 of, the California Code of Regulations, or any successor regulations.

(C) For purposes of this paragraph, "open remedial action agreement" means a remedial action agreement entered into by a local agency and a responsible party before January 1, 2022, for a waste release site for which the local agency, as of January 1, 2022, has not certified that the cleanup goals embodied in the remedial action agreement were accomplished pursuant to paragraph (2).

(k) Except as provided in paragraph (3) of subdivision (j), the amendments made to this section by Assembly Bill 304 of the 2021-22 Regular Session apply to a remedial action agreement entered into on or after January 1, 2022, and this section applies as it read on December 31, 2021, with regard to a remedial action agreement entered into before January 1, 2022.

(Amended by Stats. 2021, Ch. 698, Sec. 2. (AB 304) Effective January 1, 2022.)

101483. This article shall not apply to any of the following:

(a) A hazardous substance release site listed pursuant to Section 25356, a site subject to an order or enforceable agreement issued pursuant to Section 25355.5 or 25358.3, or a site where the department has initiated action pursuant to Section 25355.

(b) A site subject to a corrective action order or agreement issued pursuant to Section 25187.

(c) A site subject to a cleanup and abatement order issued pursuant to Section 13304 of the Water Code.

(d) A facility that is subject to the requirements of Section 25200.10 or 25200.14.

(Amended by Stats. 2021, Ch. 698, Sec. 3. (AB 304) Effective January 1, 2022.)

101485. This article does not prohibit the department from assuming jurisdiction over a waste release site pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20, or the regional water quality control board or the state board from assuming jurisdiction over a waste release site or from taking enforcement action against a waste release site pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(Amended by Stats. 2021, Ch. 698, Sec. 4. (AB 304) Effective January 1, 2022.)

101487. (a) A local officer shall provide written notification to the department and the regional water quality control board of the local officer's intention to enter into a remedial action agreement with a responsible party pursuant to paragraph (1) of subdivision (c) of Section 101480. The written notification shall include all of the following:

(1) The name and address of the responsible party.

(2) The name and address of the current owner of the waste release site, if different than the responsible party.

(3) The address and location of the waste release site to which the remedial action agreement will apply.

(4) A description of any known or planned local, state, or federal regulatory involvement at the waste release site.

(5) A preliminary description of the waste release and, if known, the anticipated investigation or remediation to be performed under the remedial action agreement.

(6) The name, phone number, and email address of the local officer's technical staff who are available to oversee the remediation of the waste release site.

(b) The amendments made to this section by Assembly Bill 304 of the 2021–22 Regular Session apply to a remedial action agreement entered into on or after January 1, 2022. For a remedial action agreement entered into before January 1, 2022, this section applies as it read on December 31, 2021.

(Amended by Stats. 2021, Ch. 698, Sec. 5. (AB 304) Effective January 1, 2022.)

101490. A local officer may charge the responsible party a fee to recover the reasonable and necessary costs incurred in carrying out this article.

(Added by Stats. 1996, Ch. 1023, Sec. 303.3. Effective September 29, 1996.)



San Francisco Department of Public Health

Grant Colfax, MD
Director of Health

City and County of San Francisco
London N. Breed
Mayor

September 12, 2022

Angela Calvillo, Clerk of the Board
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Dear Ms. Calvillo:

Attached please find a proposed resolution for the Board of Supervisors approval. The proposed resolution authorizes the County Health Officer or the Health Officer's designee and the Department of Public Health's Director of Environmental Health Branch or the Director's designee to enter into a remedial action agreement and oversee a remedial investigation or remedial action, or both at a waste release site in accordance with California Health & Safety Code §§101480- 101490.

The following is a list of accompanying documents

- California Health & Safety Code §§101480- 101490

The following person may be contacted regarding this matter:

Beronica Slattengren, Principal Environmental Health Inspector; phone: (415)252-3840; email: Beronica.Slattengren@sfdph.org

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Grant Colfax".

Grant Colfax, MD
Director of Health