



Legislation Text

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Report regarding an Ordinance adding Chapter 14.06 to the South San Francisco Municipal Code to manage polychlorinated biphenyls (PCBs) during building demolition projects. (*Andrew Wemmer, Environmental Compliance Supervisor*)

RECOMMENDATION

Staff recommends that the City Council introduce an Ordinance adding Chapter 14.06 to the South San Francisco Municipal Code to manage polychlorinated biphenyls (PCBs) during building demolition projects, and waive further reading.

BACKGROUND/DISCUSSION

PCBs have been detected in elevated levels in certain sportfish within the San Francisco Bay (Bay). To make the fish safer to eat, PCBs sources to the Bay need to be identified and controlled. Urban stormwater runoff is considered a significant pathway for PCBs into the Bay. Accordingly, regulatory agencies are requiring that Bay Area municipalities address sources of PCBs in stormwater runoff discharged to the Bay from municipal separate storm sewers systems (MS4s). This regulation targets selected priority building materials that may contain relatively high levels of PCBs, especially in buildings constructed or remodeled from January 1, 1950 to December 31, 1980.

During demolition, these building materials and associated PCBs may be released to the environment and transported to the Bay by stormwater runoff. The priority building materials are caulking, thermal/fiberglass insulation, adhesive/mastic, and rubber window gaskets (BASMAA 2018). To identify these materials, an initial literature review was conducted to identify the full list of known PCBs-containing building materials and reported PCBs concentrations. The materials were then prioritized by developing six factors that relate to the load or mass of PCBs associated with the materials, the likelihood of the material to get into stormwater during the demolition process, and the relative difficulty to remove the material from the building. A spreadsheet was used to assign a score to each material based on the factors, which were evenly weighted. The materials were then ranked and the highest scoring materials selected (LWA 2017).

Water quality within the San Francisco Bay Region is regulated by the Regional Water Board. The San Francisco Bay Region encompasses portions of Alameda, Contra Costa, Marin, Napa, Santa Clara, San Francisco, San Mateo, Solano, and Sonoma Counties. One way that the Regional Water Board protects water bodies within the San Francisco Bay Region is to develop Total Maximum Daily Loads (TMDLs), which are programs to restore water quality in water bodies impaired by pollutants such as PCBs. Currently there is a TMDL established for PCBs in the Bay. To achieve the goals of the TMDL, a reduction in the amount of inputs of PCBs to the Bay is required. The PCBs TMDL estimates that 20 kilograms per year (kg/year) of PCBs enters the Bay in stormwater runoff, and requires that this input be reduced to 2 kg/year by 2030, a 90% reduction.

In 2015, the Regional Water Board reissued the Municipal Regional Permit (MRP), a National Pollutant

Discharge Elimination System (NPDES) permit that regulates discharges of stormwater runoff from MS4s. The MRP includes provisions that implement the requirements in the PCBs TMDL to reduce discharges of PCBs in stormwater runoff to the Bay. These include Provision C.12.f., which requires Permittees to develop new programs to manage PCBs-containing building materials during demolition. Remodeling, partial building, wood framed structure, and single-family residence demolition projects are exempt. The MRP requires that these new programs are adopted and begin implementation by July 1, 2019.

ANALYSIS AND SUMMARY OF THE REGULATION

The City of South San Francisco is required by the MRP to reduce PCBs discharges in stormwater runoff. This regulation targets priority building materials that may contain relatively high levels of PCBs, especially in buildings constructed between 1950 and 1980. The priority building materials are caulking, thermal/fiberglass insulation, adhesive/mastic, and rubber window gaskets. It is recommended that these priority building materials are regulated during demolition to prevent the materials and associated PCBs from potentially being released to the environment and transported to the Bay by stormwater runoff.

This regulation requires an assessment process for PCBs in building materials that is analogous in some ways to the process currently implemented for asbestos-containing materials. It requires that the City of South San Francisco initially notifies demolition permit applicants about the new requirements to conduct a PCBs in Priority Building Materials Screening Assessment.

The PCBs in Priority Building Materials Screening Assessment is a two-step process used to determine whether 1) determining whether the building proposed for demolition is high priority for PCBs-containing building materials based on the building age, use, and construction type; and if so 2) demonstrating the presence or absence and concentration of PCBs in Priority Building Materials through existing information or representative sampling and chemical analysis of the Priority Building Materials in the building. The first step of the PCBs in Priority Building Materials Screening Assessment determines whether or not the building is an applicable structure. It is anticipated that many projects will not involve the demolition of applicable structures. Demolition permit applicants for projects that don't involve applicable structures will only need to address the initial screening questions and certify the answers.

Applicants shall follow the directions provided in the PCBs in Priority Building Materials Screening Assessment Applicant Package (Applicant Package), provided by the Building Division upon an application for a demolition permit. The Applicant Package and screening assessment form will also be required as a Water Quality Control Program standard Condition of Approval (COA) through within the plan review process. The Applicant Package includes an overview of the process, Applicant instructions, a process flow chart (Attachment 3), a screening assessment form, and the Protocol for Assessing Priority PCBs-Containing Materials before Building Demolition (BASMAA 2018). Per the Applicant Package, for certain types of buildings built between 1950 and 1980, the Applicant must conduct further assessment to determine whether or not PCBs are present at concentrations ≥ 50 ppm. This determination is made via existing data on specific product formulations (if available), or more likely, via conducting representative sampling of the priority building materials and having the samples analyzed for PCBs at a certified analytical laboratory. Any representative sampling and analysis must be conducted in accordance with the Protocol for Assessing Priority

PCBs-Containing Materials before Building Demolition. The Applicant Package provides additional details.

When the PCBs in Priority Building Materials Screening Assessment identifies one or more Priority Building Materials with PCBs, the Applicant must comply with all related applicable federal and state laws, including potential notification of the appropriate regulatory agencies, including EPA, the Regional Water Board, and/or the DTSC. Agency contacts are provided in the Applicant Package. Additional sampling for and abatement of PCBs may be required. Depending on the approach for sampling and removing building materials containing PCBs, the Applicant may need to notify or seek advance approval from USEPA before building demolition. Even in circumstances where advance notification to or approval from USEPA is not required before the demolition activity, the disposal of PCBs waste is regulated under Toxic Substances Control Act (TSCA). Additionally, the disposal of PCBs waste is subject to California Code of Regulations (CCR) Title 22 Section 66262. Additional information is provided in the Applicant Package.

This Ordinance and associated program have been developed through a collaboration between the City's Building Division and Water Quality Control Division, with strong support from the San Mateo Countywide Pollution Prevention Program (SMCWPPP) and the Bay Area Stormwater Management Agencies Association (BASMAA). The City's Building Division will act as first point of contact, providing the Applicant Package, and the Water Quality Control Division will receive, review, document and maintain program compliance with the information received by the Applicant.

The focus of this regulation is on PCBs runoff prevention to protect water quality. The regulation does not:

- Ask for municipal oversight or enforcement of human health protection standards.
- Ask for municipal oversight of PCBs abatement or remediation of materials or lands contaminated by PCBs.
- Establish remediation standards.

At all demolition sites, routine construction controls, including erosion and sediment controls, should also be implemented per the requirements of the MRP and the statewide Construction General Permit issued by the California State Water Resources Control Board.

RELATIONSHIP TO STRATEGIC PLAN

The charge of the WQCP Division is to protect public health and the environment. Requiring developers to effectively manage PCBs and prevent them from entering the environment via stormwater runoff ensures quality of life and public safety.

FISCAL IMPACT

For projects that do not involve applicable structures, the fiscal impact to the municipal agency of this regulation could be partially offset by the collection of permit fees or deposits to recover the cost of its implementation. For these projects, the additional amount of municipal staff time needed to process the demolition permit application is expected to be minimal and there should not be the need for cost recovery.

However, each applicant for demolition of an applicable structure will be required to screen priority building

materials for PCBs and certify the results. For these projects, additional municipal staff hours will be needed to review and process the demolition permit application. Municipal staff should confirm that the applicant has submitted all of the required information and that the information appears to be consistent with the requirements of the program (i.e., review the application for completeness). The review would generally be limited to confirming that the PCBs in Priority Building Materials Screening Assessment was conducted per the instructions in the Applicant Package. Municipal staff should document any shortcomings in the application and make certain that they are addressed by the applicant before the application is approved.

It is estimated that on average two hours of municipal staff time will be required to review and approve the application for projects that involve applicable structures. This relatively low level of estimated effort is consistent with the self-certification approach, which requires the applicant to submit limited corroborating information with the application (i.e., contractor's report that includes a completed QA/QC checklist and analytical laboratory reports when the screening includes sampling). After discussing with the Finance Department, applying \$163.00/hour as an estimate of the hourly rate for appropriate Water Quality Control Division staff, the estimated incremental cost for reviewing demolition permit applications for applicable structures would be \$326.00. The Finance Department has added a Water Quality Control Plan Review Fee of \$163.00/hour into the 2019-2020 Master Fee Schedule that will mitigate the fiscal impacts of reviewing and approving the demolition permit application for projects that involve applicable structures.

Due to the requirements of this regulation, applicants for demolition permits for applicable structures, including municipalities implementing public projects, would incur additional costs. Some applicants would only incur costs for screening priority building materials for PCBs and certifying the results. Other applicants would incur higher costs for conducting additional activities, especially when materials with PCBs concentrations ≥ 50 ppm are identified. Types of activities potentially required of applicants by this regulation and the associated resources to implement the activities are summarized in Table 1. The actual specific activities/resources required and associated costs will vary greatly depending on the project.

ENVIRONMENTAL REVIEW

Adoption of the attached ordinance is exempt from environmental review under California Environmental Quality Act (CEQA) exemption Section 15308, Actions by Regulatory Agencies for Protection of the Environment. This exemption provision applies to actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment as discussed above. No unacceptable negative impacts have been identified.

CONCLUSION

The City of South San Francisco is required by the MRP to reduce PCB discharges in stormwater runoff. Specifically, the City is required by MRP Provision C.12.f. to develop a new program to manage PCBs-containing building materials during demolition. Staff is requesting that the City Council waive reading and introduce the attached Ordinance adding Chapter 14.06 to the South San Francisco Municipal Code to manage polychlorinated biphenyls (PCBs) during building demolition projects.

Attachments:

Attachment 1 - Table 1 Potential Required Resources

Attachment 2 - Presentation (PCBs Demolition Briefing)

Attachment 3 - Screening Assessment Flow Chart