



# County of San Mateo

## Inter-Departmental Correspondence

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**Department:** PLANNING AND BUILDING

**File #:** 19-887

Board Meeting Date: 9/17/2019

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**Special Notice / Hearing:** None  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** Steve Monowitz, Community Development Director

**Subject:** Adoption of an Ordinance amending the San Mateo County Ordinance Code, Division VII (Building Regulations), to require management of PCBs during building demolition projects

### **RECOMMENDATION:**

Adoption of an ordinance adding Section 9218 to Division VII (Building Regulations) of the San Mateo County Ordinance Code to establish regulations for management of building materials containing polychlorinated biphenyls (PCBs) during building demolition in compliance with the Municipal Regional Stormwater Permit, previously introduced on August 6, 2019 and waive the reading of the ordinance in its entirety.

### **BACKGROUND:**

Water quality within the San Francisco Bay Region is regulated by the San Francisco Bay Regional Water Quality Control Board (Regional Water Board). The Regional Water Board's jurisdiction encompasses all or portions of Alameda, Contra Costa, Marin, Napa, Santa Clara, San Francisco, San Mateo, Solano, and Sonoma counties. The Regional Water Board protects water bodies within the region by developing Total Maximum Daily Loads (TMDLs), which are thresholds developed to restore water quality in water bodies impaired by pollutants, such as PCBs. The Regional Water Board has established a TMDL for PCBs in the San Francisco Bay (Bay), and the goals set in this TMDL require a reduction in the amount of PCBs entering the Bay. The Regional Water Board estimates that 20 kilograms per year (kg/year) of PCBs enter the Bay in stormwater runoff, and the TMDL requires that this amount be reduced to 2 kg/year by 2030, a 90% reduction.

In 2015, the Regional Water Board reissued the Municipal Regional Stormwater Permit (MRP), a National Pollutant Discharge Elimination System (NPDES) permit that regulates discharges of stormwater runoff from municipal separate storm sewer systems (MS4s). The MRP includes provisions that implement the requirement to reduce discharges of PCBs in stormwater runoff to the Bay. Among the MRP requirements regarding PCB reduction is Provision C.12.f, which requires permittees (including the County) to develop new programs to manage PCB-containing building materials during demolition. Provision C.12.f exempts remodeling and partial building demolition

projects, and primarily focuses on complete demolition of commercial, public, institutional, and industrial structures, not wood-framed structures or single-family residences.

A coordinated regional effort resulted in development of a recommended regulation targeting selected priority building materials (including caulking, thermal/fiberglass insulation, adhesive/mastic, and rubber window gaskets) that may contain relatively high levels of PCBs, especially in buildings constructed or remodeled from January 1, 1950 to December 31, 1980. Without proper control, these building materials and associated PCBs may be released to the environment during demolition and transported to the Bay by stormwater runoff.

### **DISCUSSION:**

The Ordinance would add a new provision to the Building Regulations to implement the requirements of Provision C.12.f. The proposed regulation requires applicants for a demolition permit to conduct an assessment process for PCBs in building materials that is similar to the process currently implemented for asbestos-containing materials.

All applicants for a complete building demolition will be required to complete a screening assessment form, and for certain types of buildings built between 1950 and 1980 (*applicable structures*), the applicant will be required to conduct a further assessment to determine whether PCBs are present at concentrations greater than or equal to 50 parts per million (ppm). This assessment will be made via historic data on specific product formulations (if available), or more likely, by conducting representative sampling of the priority building materials and having the samples analyzed at a certified analytical laboratory.

The screening assessment is a two-step process; the initial step determines whether the building is an applicable structure. Whether a building is an applicable structure will depend on structure age (targeted structures were built from 1950 to 1980), use (single-family residences are excluded), and construction (wood-framed structures are excluded). Staff anticipates that many projects will not involve demolition of applicable structures. In those cases, demolition permit applicants will only need to address the initial screening questions and certify the answers.

In the event the screening assessment identifies one or more priority building materials with PCBs, the applicant must comply with all applicable federal and state laws, including potential notification of the appropriate regulatory agencies, such as the United States Environmental Protection Agency (EPA), the Regional Water Board, and the California Department of Toxic Substances Control (DTSC). Staff will provide the relevant agency contacts in the packet of materials provided to the applicant. Additional sampling for and abatement of PCBs may be required pursuant to existing federal or state laws. Disposal of PCB waste is regulated under the federal Toxic Substances Control Act (TSCA) and California Code of Regulations (CCR) Title 22 Section 66262.

The focus of Provision C.12.f is on prevention of PCB-contaminated runoff to protect water quality. Provision C.12.f does not require the County to establish standards or enforce abatement or remediation.

### **FISCAL IMPACT:**

For projects with no applicable structures, the fiscal impact to the County is marginal and involves the processing of one additional form. In this case, additional County staff time to process the demolition permit application is expected to be minimal, and there should not be the need for cost recovery.

However, applicants for demolition of an applicable structure will be required to screen priority

building materials for PCBs and certify the results. For these projects, additional County staff hours will be needed to review and process the application. County staff will confirm that the Applicant has submitted all of the required information and that the information appears to be consistent with the requirements of the regulation (i.e., review the application for completeness).

Staff estimates that up to two hours of additional County 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.

Applicants for demolition permits for applicable structures, including the County when implementing County projects, would incur additional costs due to implementation of the MRP requirement. 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 PCB concentrations  $\geq 50$  ppm are identified. Types of applicant activities potentially required by the MRP 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.

**Table 1. Types of Activities Potentially Required of Applicants for Demolition Permits by this Regulation and the Associated Resources to Implement the Activities.**

<b>Potentially Required Applicant Activity<sup>1</sup></b>	<b>Resource</b>
Initial Screening: building age, use, construction type	Applicant staff time
PCBs in priority building materials screening	
Research material specific formulations	Applicant staff time and/or hire consultant
Develop representative sampling plan	Hire consultant
Sample collection and analysis	Hire consultant and analytical laboratory
Notifications to regulators	Applicant staff time and/or hire consultant
Removal of priority PCBs-containing materials	
Develop removal/disposal plan	Hire consultant
Implement removal plan	Hire consultant and/or abatement contractor
Verification sample collection and analysis	Hire consultant/contractor and analytical laboratory
Any required additional site investigation and cleanup <sup>2</sup>	
Work with regulator (e.g., EPA) before and during investigation and cleanup	Applicant staff time and/or hire consultant
Develop site investigation and cleanup plan	Hire consultant
Implement site investigation and cleanup plan	Hire consultant and/or abatement contractor
Verification sample collection and analysis	Hire consultant/contractor and analytical laboratory
Waste transport and disposal	
PCBs waste transport and disposal	Hazardous waste transport and landfill fees
Municipal waste transport and disposal	Municipal waste transport and landfill fees
Reporting, completion of forms, certifications	Applicant staff time, hire consultant
Oversight and management	Applicant staff time, hire consultant

<sup>1</sup> The actual specific activities/resources required, and associated costs will vary greatly depending on the project.

<sup>2</sup> For example, cleanup of substrates adjacent to the PCBs-containing materials, site sediments, and/or site soils.