



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: July 9, 2019
TO: Christine Daniel, City Manager
FROM: Andrew Clough, Public Works Director
SUBJECT: **An Ordinance Of The City Council Of The City Of Emeryville Amending Sections 8-26.01 and Sections 8-26.03 Of The Emeryville Municipal Code To Include Certain Demolition Waste Containing Polychlorinated Biphenyls (PCBs); CEQA Determination: Exempt Pursuant to CEQA Guideline Sections 15061(b)(3) And 15307**

RECOMMENDATION

Staff recommends that the City Council approve the second reading of an ordinance which amends Chapter 26, Construction and Demolition Waste Requirements, of Title 8 of the Emeryville Municipal Code.

BACKGROUND

In November 2015, the San Francisco Regional Water Quality Control Board (Water Board) issued its Municipal Regional Stormwater Permit, Order No. R2-2015-0049 (MRP), regulating stormwater discharges under the National Pollutant Discharge Elimination System (NPDES) from municipalities and local agencies in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, as well as the cities of Fairfield, Suisun City, and Vallejo. Among many other requirements, the MRP section C.12, "Polychlorinated Biphenyls (PCBs) Controls," requires that Permittees implement specific control programs for PCBs. One of the elements of PCB control outlined in section C.12.f. of the MRP is a requirement to "Manage PCB-Containing Materials and Wastes During Building Demolition Activities So That PCBs Do Not Enter Municipal Storm Drains."

The City Council adopted the first reading on a 5-0 vote at its June 18, 2019 meeting.

DISCUSSION

In order to meet the requirements of section C.12.f, Permittees' programs must include the following components:

- a) The necessary authority to ensure that PCBs do not enter municipal stormwater systems from PCB-containing materials in "applicable structures" at the time such structures undergo demolition;
- b) A method for identifying applicable structures prior to their demolition; and
- c) Method(s) for ensuring PCBs are not discharged to the storm drain from demolition of applicable structures.

The requirements listed under item b) above will be met administratively by Public Works staff and Building staff. Methods for preventing discharge, as listed under item c) above, have been developed regionally by groups including the Alameda County Clean Water Program and the Bay Area Stormwater Management Agencies Association. The proposed amendments to Emeryville's Construction and Demolition Waste Ordinance are designed so that the City is in compliance with item a): the necessary authority to ensure that PCBs do not enter the stormwater as a result of demolition of "applicable structures." Applicable structures are defined as "commercial, public, institutional and industrial structures constructed or remodeled between the years 1950 and 1980 with building materials with PCB concentrations of 50 parts per million (ppm) or greater. Single-family residential and wood frame structures are exempt.

FISCAL IMPACT

The fiscal impact to the City is limited to the administrative time needed to develop internal forms and protocols, to ensure that applicants screen applicable structures for PCBs when applying for a demolition permit, and to oversee the program. Building Department staff have issued fewer than two demolition permits each year since 2004, none of which appear to have been "applicable structures."

ENVIRONMENTAL REVIEW

This Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to state CEQA Guidelines Section 15061(b)(3) in that there is no possibility that the proposed ordinance will have a significant effect on the environment. This project is further exempt from CEQA under Section 15307 because the ordinance will create a regulatory process intended to protect water, a natural resource.

STAFF COMMUNICATION WITH THE PUBLIC

This issue has been discussed at regional meetings of several subcommittees and working groups of the Alameda County Clean Water Program.

CONCLUSION

These proposed amendments keep the City of Emeryville in compliance with section C.12 of the Municipal Regional Permit issued by the San Francisco Regional Water Quality Control Board.

Staff recommends the City Council approve the second reading of the Ordinance.

PREPARED BY: Nancy Humphrey, Environmental Programs Supervisor

**APPROVED AND FORWARDED TO THE
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



Christine Daniel, City Manager