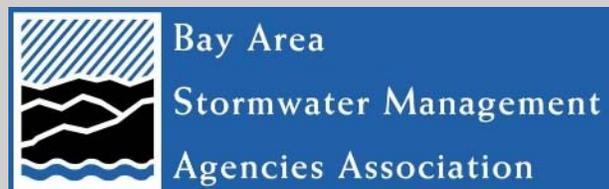


CEQA Strategy and Model Notice of Exemption



Managing PCBs–Containing Building Materials during Demolition: Guidance, Tools, Outreach and Training



August 2018

This document is a deliverable of the Bay Area Stormwater Management Agencies Association (BASMAA) project *Managing PCBs–Containing Building Materials during Demolition: Guidance, Tools, Outreach and Training*. BASMAA developed guidance, tools, and outreach and training materials to assist with San Francisco Bay Area municipal agencies’ efforts to address the requirements of Provision C.12.f. of the Bay Area Municipal Regional Stormwater Permit (referred to as the MRP). Provision C.12.f of the MRP requires Permittees to manage PCBs–containing building materials during demolition.

We gratefully acknowledge the BASMAA Steering Committee for this project, which provided overall project oversight, including during the development of this and other project deliverables:

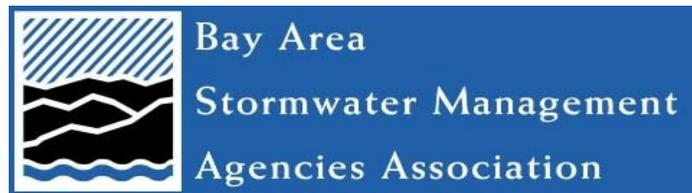
- Reid Bogert, Stormwater Program Specialist, San Mateo Countywide Water Pollution Prevention Program (BASMAA Project Manager)
- Amanda Booth, Environmental Program Analyst, City of San Pablo
- Kevin Cullen, Program Manager, Fairfield-Suisun Urban Runoff Management Program
- Matt Fabry, Program Manager, San Mateo Countywide Water Pollution Prevention Program
- Gary Faria, Supervisor, Inspection Services, Building Inspection Division, Contra Costa County
- Napp Fukuda, Deputy Director - Watershed Protection Division, City of San José
- Ryan Pursley, Chief Building Official, Building Division, City of Concord
- Pam Boyle Rodriguez, Manager, Environmental Control Programs – Stormwater, City of Palo Alto
- Jim Scanlin, Program Manager, Alameda Countywide Clean Water Program
- Melody Tovar, Regulatory Programs Division Manager, City of Sunnyvale

We also gratefully acknowledge the project Technical Advisory Group, which provided feedback from a variety of project stakeholders during development of selected project deliverables:

Stakeholder Group	Representative(s)
Regulatory – stormwater/PCBs	Luisa Valiela and Carmen Santos, U.S. EPA Region 9
Regulatory – stormwater/TMDL	Jan O’Hara, San Francisco Bay Regional Water Quality Control Board
Regulatory – experience with related program (asbestos management)	Ron Carey and Richard Lew, Bay Area Air Quality Management District
Industry – demolition contractors	Avery Brown, Ferma Corporation
Industry – remediation consultants	John Martinelli, Forensic Analytical Consulting John Trenev, Bayview Environmental Services, Inc.
MRP Permittee – large municipality	Patrick Hayes, City of Oakland
MRP Permittee – medium municipality	Kim Springer, San Mateo County Office of Sustainability
MRP Permittee – small municipality	Amanda Booth, City of San Pablo

Prepared for:

BASMAA
P.O. Box 2385
Menlo Park, CA 94026



Prepared by:

EOA, Inc.
Larry Walker Associates
Geosyntec Consultants
Stephanie Hughes
David J. Powers & Associates, Inc.



DISCLAIMER

Information contained in BASMAA products is to be considered general guidance and is not to be construed as specific recommendations for specific cases. BASMAA is not responsible for the use of any such information for a specific case or for any damages, costs, liabilities or claims resulting from such use. Users of BASMAA products assume all liability directly or indirectly arising from use of the products.

The material presented in this document is intended solely for the implementation of a municipal regulatory program required by the San Francisco Bay Area Regional Water Quality Control Board Municipal Regional Stormwater Permit for the protection of water quality under the Clean Water Act.

BASMAA prepared the tools and guidance herein to assist MRP Permittees' efforts to address the requirements of Provision C.12.f. of the MRP. The project team received input from a variety of stakeholders during development of the tools and guidance, including regulators (San Francisco Bay Regional Water Quality Control Board, U.S. EPA, and Bay Area Air Quality Management District staff), Bay Area municipal agency staff, and industry representatives.

This document does not address other environmental programs or regulations (e.g., PCBs regulations under the Toxic Substances Control Act (TSCA); federal, state, or local regulations for hazardous material handling and hazardous waste disposal; health and safety practices to mitigate human exposure to PCBs or other hazardous materials; recycling mandates; and abatement at sites with PCBs (or other contaminants). The applicant is responsible for knowing and complying with all relevant laws and regulations.

The mention of commercial products, their source, or their use in connection with information in BASMAA products is not to be construed as an actual or implied approval, endorsement, recommendation, or warranty of such product or its use in connection with the information provided by BASMAA.

This disclaimer is applicable to all BASMAA products, whether information from the BASMAA products is obtained in hard copy form, electronically, or downloaded from the Internet.



MEMORANDUM

Date: February 1, 2018
To: Jon Konnan, EOA Team Project Manager
From: Mike Campbell, Project Manager
Subject: PCBs Materials Management during Building Demolition – Task 4.2

Program for Managing Priority PCBs-Containing Materials during Building Demolition - CEQA Approach Strategy and Justification

CEQA Background

Section 21084 of the Public Resources Code requires that the CEQA Guidelines include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. In response to that mandate, the Secretary for Resources has found that certain classes of projects do not have a significant effect on the environment, and are declared to be categorically exempt from the requirement for the preparation of environmental documents. These classes of projects are described in the CEQA Guidelines under *Article 19. Categorical Exemptions* (Sections 15301 to 15333).

Article 19 also contains a section stating that each public agency shall, in the course of establishing its own procedures, list those specific activities which fall within each of the exempt classes, provided that these lists are consistent with the letter and intent expressed in the classes. It further states that public agencies may omit from their implementing procedures classes and examples that do not apply to their activities, but they may not require EIRs for projects described in the classes.

Project Approach

The subject project, which is described as an ordinance (or other municipal mechanism such as updating standard permit conditions for demolition by resolution or staff actions) to implement a new program to manage priority polychlorinated biphenyls (PCBs)-containing building materials during demolition, is consistent with Class 8 (*Section 15308 – Actions by Regulatory Agencies for Protection of the Environment*) under Article 19 of the CEQA Guidelines. As described in the Guidelines, Class 8 consists of 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. Construction

activities and relaxation of standards allowing environmental degradation are specifically not included in this exemption.

The project would be found to be exempt from CEQA under Class 8. The project is intended to help local government agencies comply with Provision C.12.f of the San Francisco Bay Area Municipal Regional Stormwater Permit (commonly referred to as the MRP), which requires each Permittee to develop and implement an effective protocol for managing materials with PCBs concentrations of 50 ppm or greater in applicable structures at the time such structures undergo demolition so that PCBs do not enter municipal storm drain systems. This would help reduce stormwater runoff discharges of PCBs, a known pollutant, to San Francisco Bay, which is an impaired water body. Adoption of the protocol by the Permittees would therefore be consistent with the actions taken by regulatory agencies to assure the protection of the environment, as described in the Class 8 exemption. The project is also consistent with the language in Class 8 that cites *actions taken by regulatory agencies, as authorized by state or local ordinance*, which would apply to the MRP. The project would not have a significant effect on the environment.

Preparation and filing of a Notice of Exemption (NOE)

Under CEQA, a public agency has the option to file a Notice of Exemption (NOE) when it decides that a project is categorically exempt and approves the project. The NOE should include a brief description of the project, a finding that the project is exempt, citations to the applicable exemption in the Guidelines, and a brief statement of reasons supporting the finding of exemption. It is common practice for public agencies to file an NOE with the county clerk or the Governor's Office of Planning and Research (OPR), depending on the agency filing the notice. NOEs must be posted and made available for public inspection on a weekly basis. In addition to posting, agencies are also typically encouraged to make postings of the notice available in electronic format on the Internet. If an NOE is filed and posted, a 35-day statute of limitations begins on the day the NOE is filed. If the NOE is not filed, a 180-day statute of limitations will apply. For the subject project, the attached model NOE has been prepared as a template for the Permittees to use when adopting the new program to manage priority PCBs-containing building materials during demolition through their individual methods (e.g., via ordinance, resolution). In addition to the NOE, sample language that cites the Class 8 exemption has been provided for the Permittees use in their ordinances, resolutions, and/or staff reports when adopting the new program.

NOTICE OF EXEMPTION		
To: _____ County Clerk-Recorder _____ _____	From: City of _____ _____ _____	
Project Title: Program for Managing Priority PCBs-Containing Materials during Building Demolition		
Project Location – City:	Project Location – County:	
Name of Public Agency Approving Project:		
<p>Description of Project: The project consists of an _____ (<i>ordinance or other municipal mechanism such as updating standard permit conditions for demolition by resolution or staff actions</i>) to implement a new program to manage priority polychlorinated biphenyls (PCBs)-containing building materials during demolition. The program is consistent with Provision C.12.f of the San Francisco Bay Area Municipal Regional Stormwater Permit (commonly referred to as the MRP), which requires each Permittee to develop and implement an effective protocol for managing materials with PCBs concentrations of 50 ppm or greater in applicable structures at the time such structures undergo demolition so that PCBs do not enter municipal storm drain systems.</p>		
<p>Name of Person or Agency Carrying Out Project:</p> <p>Exempt Status: The following Categorical Exemption is applicable to the proposed _____ (<i>ordinance or other mechanism</i>) implementing the local program to manage PCBs-containing building materials during demolition:</p> <p><i>Class 8 – Section 15308.</i> Consists of 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.</p>		
<p>Reasons Why Project is Exempt: Adoption of the proposed program will allow the local regulatory agency, the City/County of _____, to implement the management program, which includes requiring assessment of priority PCBs-containing materials in buildings and abatement of any priority materials found with PCBs concentrations of 50 ppm or greater in applicable structures prior to demolition. The program would help prevent the discharge of PCBs, which pose health risks to humans and aquatic wildlife, to local storm drains, and ultimately to San Francisco Bay. The project would not have a significant negative effect on the environment.</p>		
Lead Agency Contact Person:		Phone Number:
Signature:	Date:	Title: