

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

FOR YOUR INFORMATION SEE THE ATTACHED LEGISLATION

DATE SENT: April 9, 2010

FILE #: 100427

DESCRIPTION: Barring the Use of Certain Pesticides for Weed Abatement

- FROM:
- Budget & Finance
 - City Operations & Neighborhood Services
 - City & School District Select
 - Government Audit & Oversight
 - Land Use & Economic Development
 - Rules
 - Public Safety

The meeting to hear this file will be held on: _____ URGENT

(response needed within one week) OR: No date set yet

Hearing or Legislation referred to:

- Building Inspection Commission *Charter Section D3.750-5*
- Ethics Commission *Campaign & Governmental Conduct Code Section 1.103*
- Historic Preservation Commission *Charter Section 4.135*
- Planning - Code Amendment *Planning Code Section 302(b) and 306(a) (90 days to respond)*
- Planning - Environmental review - 30 days to respond
- Planning - Environmental review (fees) *CEQA CA Public Resources Code § 21000 et seq - 10 days to respond*
- Planning - Interim Controls *Planning Code Section 306.7(c)*
- Retirement Board *Campaign & Governmental Code or Elections Code*
- Small Business Commission *M01-33*
- Youth Commission *Charter Section 3.720-2; Charter Section 4.124 (12 day to respond)*
- FYI

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April 9, 2010

File No. 100427

Bill Wycko
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Mr. Wycko:

On April 6, 2010, Supervisor Alioto-Pier introduced the following proposed legislation:

File No. 100427 Ordinance amending the San Francisco Environment Code by amending Section 307, to bar the Department of Environment from granting exemptions from the ban on the use of certain pesticides by City departments, where the intended use of the pesticide is solely or primarily for weed abatement, and making environmental findings.

The legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

A handwritten signature in black ink that reads "Victor Young".

By: Victor Young, Committee Clerk
City Operations and Neighborhood Services

Attachment

cc: Nannie Turrell, Major Environmental Analysis
Brett Bollinger, Major Environmental Analysis

1 [Barring the Use of Certain Pesticides for Weed Abatement]

2
3 **Ordinance amending the San Francisco Environment Code by amending Section 307,**
4 **to bar the Department of Environment from granting exemptions from the ban on the**
5 **use of certain pesticides by City departments, where the intended use of the pesticide**
6 **is solely or primarily for weed abatement, and making environmental findings.**

7 NOTE: Additions are *single-underline italics Times New Roman*;
8 deletions are *strike-through italics Times New Roman*.
9 Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

10 Be it ordained by the People of the City and County of San Francisco:

11 Section 1. The San Francisco Environment Code is hereby amended by amending
12 Section 307, to read as follows:

13 **SEC. 307. EXEMPTIONS.**

14 (a) **Improving and maintaining water quality.** Notwithstanding any other provision
15 of this Chapter, this Chapter shall not apply to the use of any pesticide for the purpose of
16 improving or maintaining water quality at:

- 17 (1) Drinking water treatment plants;
18 (2) Wastewater treatment plants;
19 (3) Reservoirs; and
20 (4) Related collection, distribution and treatment facilities.

21 (b) **One-year exemptions.** A City department may apply to the Department for up to
22 a one-year exemption from the pesticide ban imposed by Sections 302 or 303 for use of a
23 particular pesticide for a particular use. The application for an exemption shall be filed on a
24 form specified by the Department and shall be signed by the City department's IPM
25

1 Coordinator. The Department of the Environment may grant the one-year exemption upon a
2 finding that the City department has:

3 (1) Made a good-faith effort to find alternatives to the banned pesticide;

4 (2) Demonstrated that effective, economic alternatives to the banned pesticide
5 do not exist for the particular use; and

6 (3) Developed a reasonable plan for investigating alternatives to the banned
7 pesticide during the exemption period.

8 (c) **Limited use exemption.** A City department may apply to the Department for a
9 limited use exemption for a particular pesticide banned pursuant to Section 302 or 303 and
10 not covered by a one-year exemption. The application for an exemption shall be filed on a
11 form specified by the Department and shall be signed by the City department's IPM
12 Coordinator. The Department may grant a limited-use exemption provided that the
13 Department finds that the City department will use the pesticide for a specific and limited
14 purpose and for a short and defined period and the City department has identified a
15 compelling need to use the pesticide.

16 (d) **Reduced-risk pesticide.** The Commission on the Environment may exempt a
17 reduced-risk pesticide from the ban imposed by Section 303 upon a finding that the reduced-
18 risk pesticide is commonly used as part of an IPM strategy. Based on recommendations by
19 the Department, the Commission shall maintain a list of reduced-risk pesticides granted an
20 exemption pursuant to this subsection. The Commission shall review the list annually and
21 make necessary changes. The Commission may review and revise the list more frequently
22 upon recommendation by the Department.

23 (e) **Emergency exemption.** A City department may apply to the Department for an
24 emergency exemption in the event that an emergency pest outbreak poses an immediate
25 threat to public health or significant economic damage will result from failure to use a pesticide

1 banned pursuant to Section 302 or Section 303. The application for an exemption shall be
2 filed on a form specified by the Department. The Department shall respond to the application
3 in a timely manner. If the requesting department is unable to reach the Department, the
4 departmental IPM Coordinator may authorize the one-time emergency use of the required
5 pesticide. The department IPM Coordinator must notify the Department of the determination to
6 use the pesticide by facsimile prior to its application in the event that the department IPM
7 Coordinator is unable to reach the Department. Signs meeting the requirements of Subsection
8 (a)(2) through Subsection (a)(4) shall be posted at the time of application and remain posted
9 four days following the application. The Department may impose additional conditions for
10 emergency applications.

11 (f) The Department of the Environment shall not grant an exemption under subsection (c) or (d)
12 where the City department applying for the exemption intends to use the pesticide solely or primarily
13 for weed abatement.

14
15 **Section 2. Additional Provisions.**

16 (a) **Disclaimer.** In adopting and implementing this ordinance, the City and County of
17 San Francisco is assuming an undertaking only to promote the general welfare. It is not
18 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
19 is liable in money damages to any person who claims that such breach proximately caused
20 injury.


21 (b) **Conflict with State or Federal Law.** This ordinance shall be construed so as not
22 to conflict with applicable federal or State laws, rules or regulations. Nothing in this ordinance
23 shall authorize any City agency or department to impose any duties or obligations in conflict
24 with limitations on municipal authority established by State or federal law at the time such
25 agency or department action is taken.

1 (c) **Severability.** If any of the provisions of this ordinance or the application thereof to
2 any person or circumstance is held invalid, the remainder of those provisions, including the
3 application of such part or provisions to persons or circumstances other than those to which it
4 is held invalid, shall not be affected thereby and shall continue in full force and effect. To this
5 end, the provisions of this ordinance are severable.

6 (d) **Environmental Findings.** The Planning Department has determined that the
7 actions contemplated in this ordinance are in compliance with the California Environmental
8 Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.). Said determination is on file with the
9 Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by
10 reference.

13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

16 By:


17 THOMAS J. OWEN
Deputy City Attorney

Not a "Project" per CEQA
Guidelines Section 15378.

 4/22/10
Approved Planning Capt. Brett Bollinger

FILE NO.

LEGISLATIVE DIGEST

[Barring the use of certain pesticides for weed abatement.]

Ordinance amending the San Francisco Environment Code by amending Section 307, to bar the Department of the Environment from granting exemptions from the ban on the use of certain pesticides by City departments, where the intended use of the pesticide is solely or primarily for weed abatement, and making environmental findings.

Existing Law

Chapter 3 of the San Francisco Environment Code creates the City's Integrated Pest Management Program. As part of that program, City departments are barred from using certain pesticides. But the Department of the Environment is authorized to grant exemptions to that rule.

Amendments to Current Law

The proposal is an ordinance that would amend the Environment Code to eliminate the ability of the Department to grant certain types of exemptions, where the sole or primary use of the pesticide would be for weed abatement, as opposed to, for example, vermin control.

