

TRIBUTARY TRIBUNE FALL 1998

Administrative Citations

In November 1994, the San Jose City Council approved the Administrative Citations Ordinance (Ordinance No. 24725) which established an alternative enforcement tool to address discrete and transient Municipal Code violations. This ordinance was developed in part to provide a quick and efficient enforcement alternative to criminal prosecution in specified circumstances. Additionally, Section 1.15.040 of the Municipal Code provides that the amount of fines for an Administrative Citation shall be set forth in an Administrative Citation Schedule of Fines established by Resolution of the City Council.

On June 23, 1998, the San Jose City Council adopted Resolution No. 68248 setting forth the administrative citation schedule of fines for certain violations of the San Jose Municipal Code. The adopted resolution includes thirty-two (32) new administrative fines related to chapter 15.14, the industrial waste discharge regulations. The resolution became effective 30 days from this adopted date. The administrative citation procedure will initially be utilized only in San Jose. This program can be expanded into the tributary areas if there is an interest on the part of the other agencies to do so. Expansion into these areas would require the adoption of ordinance provisions within the respective jurisdictions similar to those established in San Jose.

The Administrative Citation process will provide an additional enforcement tool for addressing incidents of noncompliance. The process will be included as part of the Enforcement Response Plan for dealing with discharge violations by permitted Industrial Dischargers. Administrative citations will provide an alternative to the harsher enforcement action of permit revocation. Citations are also an economic disincentive, aimed at addressing any economic benefits from not properly treating the wastewater. The administrative citation process will require the development of internal guidance documents, policies, and procedures prior to implementation. ESD intends to implement the process in phases starting with the drafting of guidelines and updating of the Enforcement Response Plan¹, followed by a review and comment period, revision and final publication of the Administrative Citation procedure, notification of the procedure to all Industrial Dischargers, initiation of a pilot program, and finally, full program implementation. This approach should allow sufficient time for staff and the Industrial Dischargers to learn and understand this new process before full implementation.

The Environmental Services Department will initially implement the following five ordinance sections:

- Section 15.14.530, Protection from Accidental Discharge
- Section 15.14.515, Discharge into Storm Drain Prohibited
- Section 15.14.575, Corrosive Matter
- Section 15.14.585, Interfering Substances
- Section 15.14.695, Discharge Reports

In addition to utilizing Administrative Citations for violations of discharges into the sanitary sewer system, ESD will begin using Administrative Citations for illegal discharges into the storm sewer system. For discharge violations into the City of San Jose's storm conveyance system, ESD will immediately implement the following three ordinances:

- Section 20.44.140, Construction Clean Up
- Section 15.14.530, Protection from Accidental Discharge
- Section 15.14.515, Discharge into Storm Drain Prohibited

The effectiveness of the Administrative Citation Process in addressing noncompliance will be monitored during the implementation of the program, and modifications to the program will be made when necessary to improve the process. Additional ordinance sections will be included as needed, utilizing the same phase-in approach to implementation of the process.

Regulation of Storm Water Discharges

Did you know that the State Water Resources Control Board (SWRCB) regulates storm water runoff in much the same way that sewage treatment plant discharges and industrial discharges to receiving waters are regulated?

After passage of the Clean Water Act the Environmental Protection Agency (EPA) began

regulating point source discharges by issuing permits pursuant to the National Pollutant Discharge Elimination System (NPDES). These NPDES permits regulated the discharges from Publicly Owned Treatment Works (POTWs) and industrial sources that discharged directly into lakes, rivers, bays, and coastal waters. Through this regulatory process the amount of pollutants discharged into rivers, bays, and coastal waters has been greatly reduced, and point sources are no longer the main contributor of pollutants.

Attention has now shifted to nonpoint sources (NPS) as a major contributor of pollutants to our waters. NPS pollution, unlike pollution from industrial sources and POTWs, comes from many diffuse sources. NPS pollution is caused by rainfall moving over and through the ground. As runoff moves, it picks up natural and human-made pollutants, finally depositing them into lakes, rivers, wetlands, coastal waters, and even our underground sources of drinking water. Common pollutants include fertilizers, herbicides, and insecticides from agricultural lands, residential and landscaped areas, oil, grease, and toxic chemicals from urban runoff, and soil from improperly managed construction sites.

To reduce these pollutants, in 1987 EPA established a framework for regulating municipal and industrial storm water discharges under the general program. Under this framework, the California State Water Resources Control Board issued separate

NPDES permits to cover construction activities, industrial activities, and major activities such as Department of Transportation (DOT) and airports.

The primary purpose of these permits is to reduce or eliminate the discharge of pollutants to storm water through the development of a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP has two major objectives: (1) to identify and evaluate sources of pollutants that may affect the quality of storm water discharges from the facility; and (2) to identify and implement site-specific best management practices (BMPs) to reduce or prevent pollutants in storm water.

Industrial Activities Storm Water General Permit

The SWRCB adopted the Industrial Activities Storm Water General Permit (General Permit) on April 17, 1997 replacing the 1991 permit. Facility operators within Santa Clara County must file a Notice of Intent (NOI) and submit an annual fee to the Regional Water Quality Control Board (RWQCB) to be covered under the General Permit. By filing an NOI with the RWQCB, you are notifying the RWQCB that your facility intends to comply with the provisions of the General Permit. The NOI requirements of the General Permit also establish a mechanism for the RWQCB to identify and track the facilities that are covered by the General Permit.

Additional Information

Attached is a factsheet describing the General Permit and a checklist to determine if your facility is required to be covered by the General Permit. To obtain an NOI form, call the RWQCB at (510) 286-1255 or a copy of the General Permit and NOI form can also be obtained from the SWRCB at

<http://www.swrcb.ca.gov/stormwtr/indusgmt.htm>

Congratulations, Candescent!

Candescent Technologies, a San Jose research facility for flat panel displays, has undertaken an aggressive approach for water conservation which is estimated to save 50,000 gallons of water daily. Candescent's water conservation projects have been divided into three phases. Phase one combines effluent from their acid waste neutralization (AWN) unit and their Reverse Osmosis water (RO) reject to produce feed water for their cooling towers. Phase two involves reuse of process rinses within the facility, and phase three will take more effluent from their AWN and RO as makeup water for a cooling tower serving a neighboring facility. Candescent also plans to build a large manufacturing complex in San Jose which will employ the same aggressive water conservation techniques.

For their first project at their existing site, Candescent will receive a rebate of more than \$30,000 from the Financial Incentives Program (FIP).

Regulatory Update

.....at the State level.....

Stormwater Permit Requirements Take on Teeth

An Industrial Storm Water bill, Assembly Bill 2019, became State law in September of this year. This bill requires all Regional Water Quality Control Boards to identify dischargers that have failed to submit *Notices of Intent* for stormwater permit coverage, as well as those dischargers that fail to submit annual reports or construction certifications.

The bill* would further require Regional Boards to administer civil liability penalties, not less than \$5,000 per year for failure to submit a *Notice of Intent* to obtain permit coverage. The person responsible for failure to submit a *Notice of Nonapplicability* would be penalized at the amount of \$1,000. The penalty for failure to submit an annual report or construction certification would be not less than \$1,000.

On or before February 2000, the State Board is required to make available a report to the public, listing those persons who were notified of their duty to comply and a description of their response, including the filing of *Notices of Intent*.

The environmental group, DeltaKeeper, has taken another tactic to spur businesses to file *Notices of Intent* to obtain permit coverage as reported in the August 21, 1998 regulatory revue publication, *Inside Cal/EPA*. DeltaKeeper has filed notices of intent to sue 16 Stockton businesses as potential violators of the Clean Water Act.

On the positive side, Assembly Bill 2019 will reduce annual stormwater fees for those facilities with SIC code of 20XX (food-related) that *have* submitted "no exposure certification" in the previous year and qualify for a sampling and analyses exemption as described in the general permit. Annual fees will be reduced to \$250 in the 1999 calendar year and to \$50 thereafter, through December 2003.

*To view Assembly Bill 2019, log-on to

http://www.leginfo.ca.gov/pub/bill/asm/ab_2001-2050/ab_2019_bill_980930_chaptered.html

Now available to all businesses

We'll pay you to lower your water bill!

The Water Efficiency Program is offering up to \$150 per toilet to those businesses that replace toilets using more than 1.6 gallons per flush, and are located in those geographic areas tributary to the Plant.

This is part of a multi-program effort to reduce the amount of treated wastewater entering the South San Francisco Bay, where freshwater can harm the salt marsh habitat of our endangered species.

Ultra-low flush toilets can create water savings for all building types, large or small, from industrial and manufacturing sites to motels and laundromats:

§ The Airport Inn International in San Jose is nearing completion of 200 ULFT installations.

§ Hewlett Packard has applied for over 100 ULFTs at their local sites.

§ Kaiser Electronics has completed 33 installations.

§ Sipex has applied for 4 ULFTs.

“I anticipated some problems because of things I’d read and heard about these ULFT’s, but we’ve installed them at our offices and had no problems or complaints. We’re happy with them.”
Warren Lutey, Facilities Maintenance Coordinator, Valley Transportation Authority.

“We participated in the City of San Jose’s Ultra-Low Flush Toilet Pilot Program. It has been almost four years and the toilets replaced are working fine.” Peter Poojary, Manager, Flamingo Motel.

**.....You choose the toilet; you choose the installer!
Call (408) 277-8400 to get started now**

I. U. Academy Reminder

The next IU Academy Class will be held December 3-4, 1998, from 8:30 a.m. - 3:30 p.m. each day. The two-day class is a compilation of the previous six classes offered, and will include a tour of the Water Pollution Control Plant and the Laboratory. There will only be room for 20 participants in this class - all participants must pre-register with Cheryl Dayley at (408) 945-3030.

Editor's notes

Summer '98 Questionnaire Response

Of the 363 copies mailed, 113 responses have been received, to date; A rate of 31% return, and in marketing terms, quite substantial. Our thanks to those who have diligently filled out and forwarded this questionnaire back to us!

The results were tabulated as follows:

QUESTION	No Interest	1	2	3	4	High Int.
1. Level of interest in newsletter.	4	3	7	25	39	35
2. The topics discussed are of value to me and my company.	3	4	7	38	44	16
3. How can the newsletter be made more valuable to you?						
4. Do the topics keep you up-to-date on your waste-water related regulatory concerns?						
5. If not, why not?						
6. Do you feel the newsletter duplicates information you get from your inspector?						
7. Is the newsletter mailed to the appropriate recipient?						
8. Would you like to continue receiving this newsletter?						
9. Who else in your company would like to receive this newsletter?						

Many requests for multiple mailings to new contacts have also been received. We will gladly mail additional copies of our newsletter to these new readers!

Response also indicates that the newsletter can be made of greater value by discussing topics of interest, such as reporting procedures, more information on flow issues, pollution prevention methodologies, **on-line service** and regulatory changes/updates. These comments will be addressed in future newsletters.

For on-line service, log onto:

www.ci.san-jose.ca.us/esd