



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Kerrie Romanow

SUBJECT: SEE BELOW

DATE: May 28, 2013

Approved

Date

5/29/13

**SUBJECT: PROPOSED ORDINANCE TO AMEND THE SAN JOSE/SANTA CLARA
WATER POLLUTION CONTROL PLANT RECEIVING STATION USE
PERMIT AND SEWER USE REGULATIONS**

RECOMMENDATION

Approve an ordinance to amend Parts 1 and 9 of Chapter 9.08 of Title 9 of the San José Municipal Code to update the receiving station use permit regulations; and to amend Parts 2 and 3 of Chapter 15.14 of Title 15 of the San José Municipal Code to add new definitions, modify permitting and reporting requirements for certain industrial dischargers, and make other technical and conforming changes to the sewer use regulations.

OUTCOME

Approval of the proposed ordinance would ensure that the City of San José ordinance is consistent with federal regulations governing the Pretreatment Program, and improve the Environmental Services Department's (ESD) ability to effectively regulate the haulers that deliver waste to the San José/Santa Clara Water Pollution Control Plant receiving stations.

BACKGROUND

The federal Clean Water Act establishes water quality standards for water bodies such as streams, rivers, bays, and oceans. Both direct dischargers like the San José/Santa Clara Water Pollution Control Plant, also known as the San José - Santa Clara Regional Wastewater Treatment Facility (Plant), and indirect dischargers such as industrial facilities are subject to the National Pollution Discharge Elimination System (NPDES) Permit program to control the discharge of pollutants to the sanitary sewer system. The City has implemented a Pretreatment Program for the service area of the Plant since 1989 to monitor and regulate these industrial discharges. Wastewater treatment plants are designed primarily to treat domestic waste with traditional pollutants such as organic material, oil and grease, and pH. Industrial pollutants such

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as heavy metals and other chemicals are difficult and expensive to treat at the Plant. Consequently, the Pretreatment Program requires regulated industries to treat their waste before discharging to the Plant to protect the Plant's processes, health and safety of staff, the sanitary sewer collection system, and ultimately the health of the Bay.

A significant component of monitoring and oversight under the NPDES permit program is the inspection of industrial facilities to ensure adequate wastewater treatment processes and procedures are in place and properly implemented. As the local control authority, the City is also subject to audits and inspections by the Federal Environmental Protection Agency (EPA) to evaluate the effectiveness and compliance of its pretreatment program. These evaluations include a review of the adequacy of the City's sewer use ordinance and its conformance to federal regulations. Recently, the Pretreatment Program underwent evaluations by the EPA and the State Water Resource Control Board. In January 2012, the EPA audited the Pretreatment Program and directed ESD to add definitions and a provision to the sewer use ordinance.

In 2007, the City implemented required elements of the 2005 EPA Streamlining Rule included in 40 CFR 403, but did not implement any of the optional elements at that time. Considering current program needs, staff has now determined that implementing the optional streamlining rules would enhance the Pretreatment Program.

The Plant also receives hauled waste for treatment from haulers that transport hauled domestic waste to its receiving stations. The use of the Plant is regulated through a receiving station use permit, and ESD administers this program.

ANALYSIS

The proposed ordinance would amend Chapter 9 and Chapter 15 of the San José Municipal Code to update the Receiving Station Use Permit Program, clarify language in the Sewer Use Ordinance, and add provisions for the Pretreatment Streamlining Rules as follows:

Chapter 9.08 Receiving Facility Use Permit for Hauled Waste to the San José/ Santa Clara Water Pollution Control Plant

ESD administers the Receiving Station Program handling application review, billing, and reporting. The Finance Department issues the permits to haulers for the program. In the past, the Public Works Department administered the program. When the program transitioned to ESD, the ordinance was not updated to reflect that change. The proposed ordinance would reflect that ESD is responsible for regulating receiving station use permits. Staff also proposes replacing the existing references to "hauled sanitary sewage" with "hauled waste" in order in to be more consistent with EPA definitions.

The proposed ordinance would also remove bond and insurance requirements for hauled waste operators from the ordinance in order to streamline the process of updating these requirements.

ESD plans to review the specific amounts for the bond and insurance requirements each year with Risk Management, and update the information in the permit application packet.

Chapter 15.14 Sewer Use Regulations

The proposed ordinance would revise Chapter 15.14 to add provisions to implement optional elements of the EPA Streamlining Rule, update language to better conform to Title 40 of the Code of Federal Regulations, and clarify language in specified sections. Implementation of the Pretreatment Streamlining Rules will add efficiencies to the Pretreatment Program, and benefit industrial users. The City currently requires all industrial users subject to categorical standards to monitor for all listed pollutants with a federal limit under that category, as well as the corresponding local limits. The Streamlining Rule, however, would allow the industrial user the option of applying for a waiver of sampling requirements for pollutants not present in their wastewater discharge. If the industrial user qualifies, it would reduce the amount of sampling and analysis conducted by the discharger and the City. The proposed ordinance would allow for an additional classification of Non-Significant Categorical Industrial Users that would apply to dischargers with categorical processes that discharge less than 100 gallons per day. The proposed ordinance will allow ESD to set the frequency of Slug Evaluation and use the permit to implement these measures.

Pursuant to the 2012 EPA audit, ESD recommends adding new sections to provide industrial users a rebuttal to an “upset” or exceptional incident in which is unintentional and a temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the industrial user.

Finally, the proposed ordinance would clarify that a late report and failure to submit reports required under federal law could subject the industrial user to penalties that escalate as set forth in the Administrative Citation Schedule of Fines.

EVALUATION AND FOLLOW UP

No additional follow-up actions with the Council are expected at this time. Staff will monitor the impact of these actions and report any issues to the Council as appropriate.

PUBLIC OUTREACH

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City.

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- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach.

These recommendations do not meet any of the above criteria; however, this memorandum will be posted on the City's website for the June 18, 2013 City Council agenda.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, Public Works, and Finance. This item is scheduled to be heard at the June 13 Treatment Plant Advisory Committee (TPAC) meeting.

CEQA

Not a Project, File No. PP-11-106.

/s/

KERRIE ROMANOW

Director, Environmental Services

For questions please contact Sharon Newton, Pretreatment Program Manager, Environmental Services Department, at 408-793-5351.