

Proposed Ordinance and Policies Municipal Regional Stormwater NPDES Permit

Rajani Nair, P.E., Deputy Director
Environmental Services Department

City Council Meeting

May 9, 2023

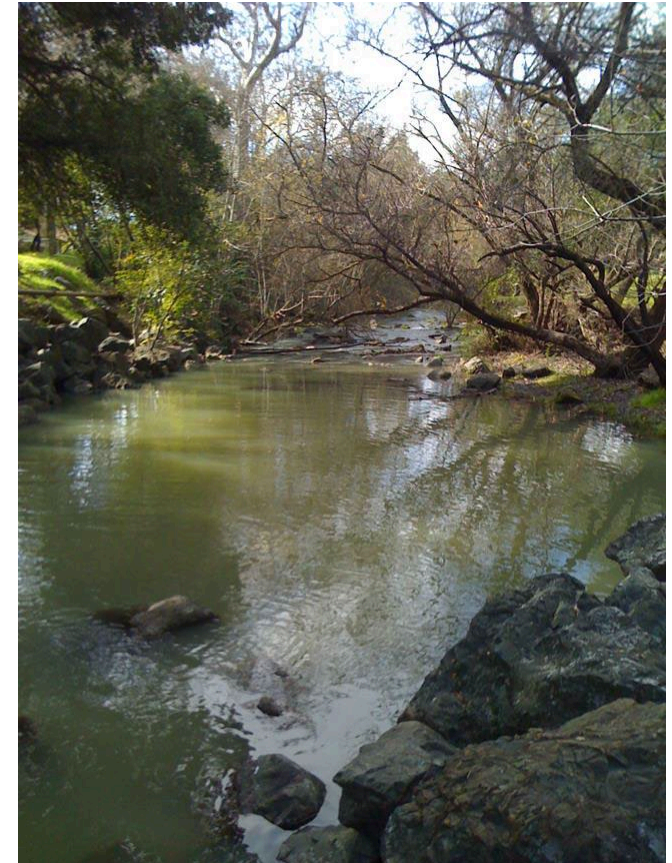


Delivering world class utility services and programs
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Environmental Services

Today's Presentation Outcomes

- Brief overview of Municipal Regional Stormwater NPDES Permit
 - C.3 New Development and Redevelopment
 - C.12 Polychlorinated Biphenyls (PCBs) Controls
- Summary of SJMC Title Updates, City Council Policies, Administrative Citation and Schedule of Fines
- Outreach Efforts
- Follow up response to Planning Commission (4/12/23) concerns
- Staff Recommendations



Where the Water Goes

**Indoor
Activities**

Sanitary Sewer

(Treated)

Treatment Plant



**Outdoor
Activities**

Storm Sewer

Creeks & Rivers



(Untreated)

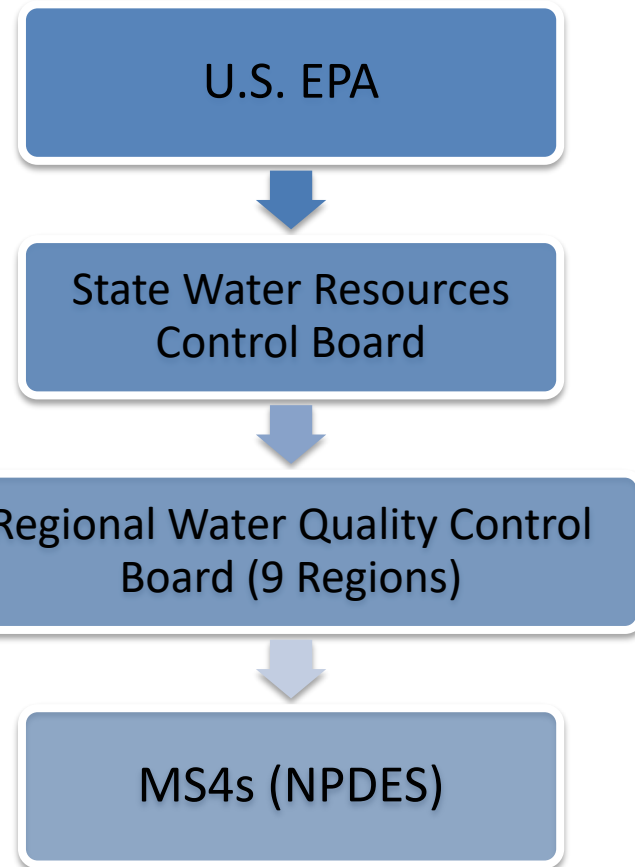


National Pollution Discharge Elimination System (NPDES) Permitting Authority



1968 Porter – Cologne Act – EPA authorizes State Water Resources Control Board

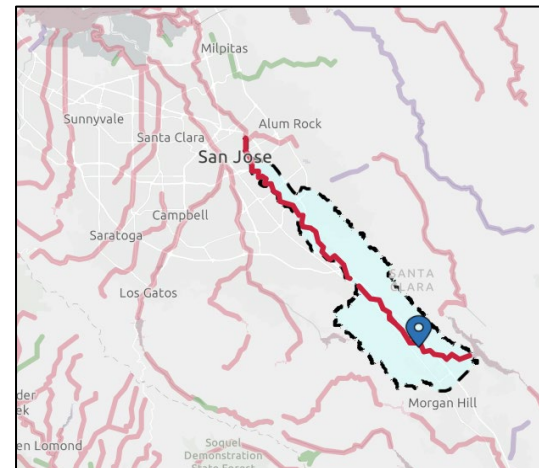
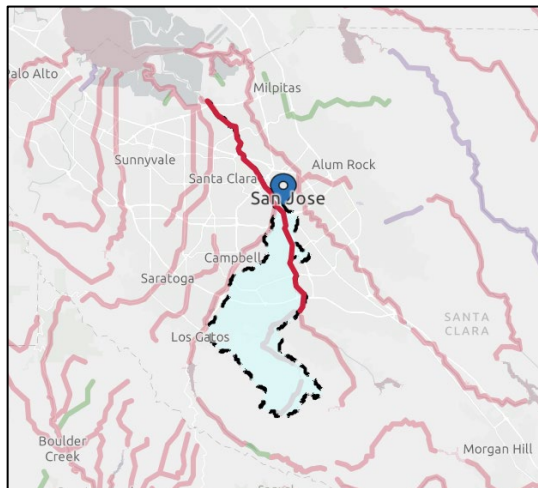
MS4 = Municipal separate storm sewer system



Current Waterway Health in San Jose

Guadalupe River State Waterbody ID: CAR2054005019980928160437	
Year Last Reported: 2022	
Waterbody Condition: ● Impaired (Issues Identified)	
Organization Name (ID): California (CA_SWRCB)	
What is this water used for?	Condition
Aquatic Life	Impaired
Fish and Shellfish Consumption	Impaired
Swimming and Boating	Impaired
Other	Impaired

Coyote Creek (Santa Clara Co.) State Waterbody ID: CAR2053002119990218112824	
Year Last Reported: 2022	
Waterbody Condition: ● Impaired (Issues Identified)	
Organization Name (ID): California (CA_SWRCB)	
What is this water used for?	Condition
Drinking Water	Condition Unknown
Aquatic Life	Impaired
Swimming and Boating	Impaired
Other	Impaired

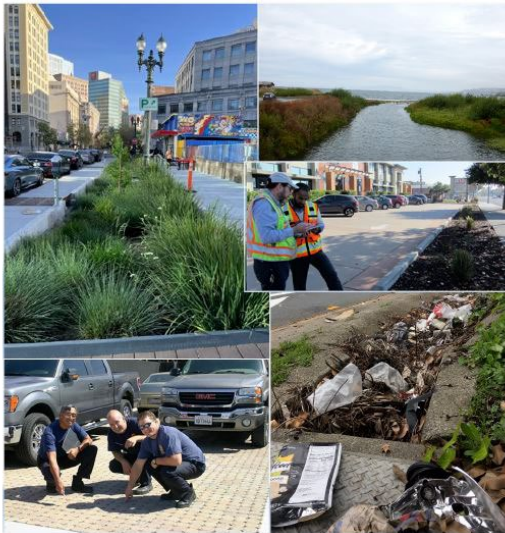


<https://mywaterway.epa.gov/>

Municipal Regional Stormwater Permit (MRP) - Effective July 1, 2022

California Regional Water Quality Control Board
San Francisco Bay Region
Municipal Regional Stormwater NPDES Permit

Order No. R2-2022-0018
NPDES Permit No. CAS612008
May 11, 2022



Permit Provision*		City Departments								
		ESD	DOT	Housing	PBCE	PRNS	PW	Airport	Fire	OED
C.2	Municipal Operations		✓			✓	✓			
C.3	New Development and Redevelopment (GSI)		✓		✓		✓	✓		
C.4	Industrial and Commercial Site Controls	✓								
C.5	Illicit Discharge and Detection Elimination	✓	✓							
C.6	Construction Site Control	✓					✓			
C.7	Public Information and Outreach	✓				✓				
C.8	Water Quality Monitoring	✓								
C.9	Pesticides Toxicity Control	✓	✓			✓	✓	✓		
C.10	Trash Load Reduction	✓	✓	✓		✓	✓			
C.11										
C.12	Mercury, PCBs, and Copper Controls	✓	✓		✓		✓			✓
C.13										
C.15	Exempted and Conditionally Exempted Discharges		✓		✓				✓	
C.17*	Discharges Associated with Unsheltered Homeless Populations			✓		✓				
C.20*	Cost Reporting	✓	✓	✓	✓	✓	✓	✓	✓	✓
C.21*	Asset Management	✓	✓	✓	✓	✓	✓	✓	✓	✓
C.22	Annual Reports	✓	✓	✓	✓	✓	✓	✓	✓	✓

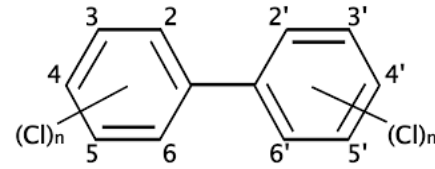
*New provision in MRP 3.0

C.3 - New Development and Redevelopment

Project Type	Past Permit	Current Permit
Commercial, Municipal, Multi-Family Dwellings, New or Widened Roads	10,000 square feet (SF) –treatment required	<u>5,000 square feet (SF) or above</u> – treatment required. *Includes Public Right-of-Way & Trails
Single Family Homes	Exempt	<u>10,000 square feet (SF) or above</u> – treatment required *Includes Public Right-of-Way
Small Projects	2,500 SF to 10,000 SF – site design measure(s) required	<u>2,500 SF to 5,000 SF</u> for new development and redevelopment, <u>2,500 SF to 10,000 SF</u> for SFHs – site design measure(s) required
Roadway Reconstruction Projects	Maintenance Exempt	<u>1 acre or above</u> with replacement down to top of base, & <u>utility trenching on average 8 feet wide or more</u>



C.12.g - Polychlorinated Biphenyls (PCBs) - Building Demolitions



What are PCBs?

- A group of man-made organic chemicals
- Used widely in industrial processes, electrical equipment, and building materials from ~1920 to 1980
- Toxic and exist in unhealthy quantities in the San Francisco Bay
- Now banned, but still persist and bioaccumulate in the environment

What is the PCBs in Building Demolition Program?

- One of four programs implemented by the City to minimize or prevent the release of PCBs-contaminated sediment to storm drains and waterways
- Required by Provision C.12.g. of the Stormwater Permit since July 1, 2019
- Expanded requirements effective July 1, 2023



C.12.g - Polychlorinated Biphenyls (PCBs) - Building Demolitions

Includes requirements from **former*** and **new**** Stormwater Permits, related to protecting storm drains from PCBs released during building demolition activities:

Category	What is required	Existing or new requirement	Number of affected projects per year	Notes
All projects involving a complete demolition of one or more buildings	PCBs Screening Form (one for each building being demolished)	Existing	~60	Determines whether a structure is Applicable
Applicable Structures	Sampling of building materials and submittal of Supporting Documents	Existing	~10-15	Determines whether a project tests at or above 50 ppm threshold
Applicable Structures with 50 ppm+	<ul style="list-style-type: none"> Notification to City, Water Board, and U.S. EPA before demolition Inspection of site by City Submittal of hazardous waste manifest 	New	~2-5	Ensures use of pollutant control measures on site, and appropriate disposal of PCBs-contaminated material

*MRP 2.0 - effective July 1, 2019, requirements continue with MRP 3.0

**MRP 3.0 - effective July 1, 2023

Updates to SJMC Titles 5 and 20

Project Type	Past Permit	Current Permit	Municipal Codes Impacted
Commercial, Municipal, Multi-Family Dwellings	10,000 square feet (SF) or above – stormwater treatment required	<u>5,000 SF or above</u> – stormwater treatment required *Includes Public Right-of-Way & Trails	SJMC 5.09.500 I SJMC 20.95.020 A SJMC 20.95.020 B SJMC 20.100.465 A
Single Family Homes (SFHs)	Exempt	<u>10,000 SF or above</u> – stormwater treatment required *Includes Public Right-of-Way & Trails	SJMC 20.95.020 D SJMC 20.100.910 G SJMC 20.100.1030 B SJMC 20.100.1030 C SJMC 20.100.1090 A
Small Projects	2,500 SF to 10,000 SF – site design measure(s) required	<u>2,500 SF to 5,000 SF</u> for new development and redevelopment <u>2,500 SF to 10,000 SF</u> for SFHs – site design measure(s) required	SJMC 20.95.020 C
Sidewalks and Public ROW	Impervious surface calculation separate	<u>Included</u> in impervious surface calculation	SJMC 20.95.020 A
Demolition	Pre-demolition screening	1) Pre-demolition screening 2) Notification and site requirement 3) Documentation and retention of records	SJMC 20.80.460 9 SJMC 20.95.020 E SJMC 20.95.110 B SJMC 20.100.465 B

Updates to SJMC Title 15

Project Type	Previous SJMC Language	Proposed SJMC Language	Municipal Codes Impacted
All projects	It shall be unlawful to discharge any sewage, industrial waste or other polluted waters into any storm drain or natural outlet or channel without a valid NPDES permit.	Clarifying applicability to any person and adding “and it is unlawful to” into discharge prohibition to prevent discharges of sewage, industrial waste, or other polluted waters.	SJMC 15.14.515 A
All projects	None	Clarifying discharge prohibition to include placing, leaving, abandoning, or maintaining pollutants, and strengthening requirement to prevent potential discharges.	SJMC 15.14.515 B
All projects	The Director may develop best management practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement local limits, federal regulations, and the requirements under this Chapter.	Clarifying that the City may develop best management practices by ordinance, Resolution, or Director order to implement limits, regulations, and requirements.	SJMC 15.14.770 A
All projects	None	Adding requirement for all persons to implement BMPs or make reasonable efforts, and ensure monitoring, treatment, and other measures to prevent pollutant and unauthorized discharges.	SJMC 15.14.770 F
All projects	None	Adding requirement for implementation and record keeping of BMPs in response to enforcement action, order or permit to be continued until regulatory authorization received.	SJMC 15.14.770 G

New and Updated City Council Policies

City Council Policy	Past Permit	Current Permit	Municipal Codes Impacted
Policy 6-28	Did not exist	<u>Developed new policy</u> with past and current permit requirements	SJMC 20.80.460 9 SJMC 20.95.020 E SJMC 20.95.110 B (\$100 fine) SJMC 20.100.465 B (\$100 fine)
Policy 6-29	Contained previous permit requirements	<u>Updated</u> with current permit requirements	SJMC 20.95.110 A (\$100 fine) SJMC 20.100.465 A (\$100 fine)
Policy 8-14	Contained previous permit requirements	<u>Updated</u> with current permit requirements	SJMC 20.100.465 A SJMC 20.100.480 F



Outreach Efforts

- SCVURPPP and the City are updating standards and guidance documents for C.3 implementation
- PCB demolition forms, guides, other information currently on the City's web page
- Department of Public Works (DPW) is communicating new and updated C.3 requirements through the permit review process
- Environmental Services Department (ESD) partnered with Planning Building Code and Enforcement and Office of Economic Development to provide updated PCB demolition information



Follow up in response to Planning Commission (4/12/23) concerns

- Cost to build LID will vary depending upon site conditions, prior use or nature and size of project
- Lower thresholds for C.3 may require increased permit fees
- City will be using General Fund to support PCB Building Demolition Program until further data is obtained either to incur cost or impose fees on permit applicants
- City staff will evaluate racial equity impacts where PCBs are found and lowered threshold requirements
- Educate public on enforcement requirements and provide necessary translation as needed



Staff Recommendation

- Approve an Ordinance amending Sections 5.09.500, 15.14.515, 15.14.770, 20.80.460, 20.95.020, 20.95.110, 20.100.465, 20.400.480, 20.100.910, 20.100.1030, and 20.100.1090
- Adopt a Resolution:
 - Approving new City Council Policy No. 6-28
 - Amending City Council Policy No. 6-29
 - Amending City Council Policy No. 8-14
 - Adopting a Resolution amending the Administrative Citation Schedule of Fines

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