



City of Sunnyvale

Agenda Item-No Attachments (PDF)

File #: 21-0496, Version: 1

REPORT TO COUNCIL

SUBJECT

Introduce an Ordinance to Amend Certain Sections of Chapter 12.12 of the Sunnyvale Municipal Code (Sewer Use Regulations) and Find That the Action is Categorically Exempt From the California Environmental Quality Act (CEQA) Pursuant to Section 15308 of the CEQA Guidelines

BACKGROUND

The City owns and operates the Donald M. Somers Water Pollution Control Plant (WPCP). Discharges to the Bay from the WPCP are regulated by the San Francisco Bay Regional Water Quality Control Board (Regional Board) through a National Pollutant Discharge Elimination System (NPDES) Permit pursuant to federal and state regulations. The permit requires the City to implement a Pretreatment Program to regulate discharges to the WPCP in order to protect the collection system, employees that work on the system, and the ability of the WPCP to effectively treat wastewater.

The Environmental Services Department implements the City's Pretreatment Program. The Program inspects, monitors, and permits industrial and commercial facilities that are regulated through discharge permits and Best Management Practices (BMPs), consistent with federal regulations. Currently, the Pretreatment Program has 30 active industrial wastewater discharge permits issued to Significant Industrial Users. Discharge Permits contain specific limits and requirements for the concentration of pollutants in wastewater discharges. Additionally, hundreds of commercial facilities are regulated through the adoption of BMPs tailored to specific activities commonly found in commercial businesses. When implemented, the BMPs reduce or eliminate the introduction of pollutants into the sanitary sewer.

EXISTING POLICY

General Plan Goal EM-5 Minimal Pollution and Quantity of Wastewater: Ensure that the quantity and composition of wastewater generated in the city does not exceed the capabilities of the wastewater collection system and the Water Pollution Control Plant.

ENVIRONMENTAL REVIEW

Modification of the City's pretreatment program as approved by the Regional Water Quality Control Board is categorically exempt from review under the California Environmental Quality Act (CEQA) because it is an action taken by regulatory agency, as authorized by state law, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. (CEQA Guidelines Section 15308.)

DISCUSSION

Sunnyvale Municipal Code Section 12.12.120 (Local Limits for Wastewater) includes limits for Cresols and Phenols. Prompted by previous inquiries from Regional Board contractors during a

Pretreatment Compliance Inspection, staff reviewed the basis for these limits and history of their use in Sunnyvale's program. Staff concluded both Cresols and Phenols are legacy pollutants that no longer appear in significant quantities in industrial discharges, are not subject to water quality criteria (as a group) and are not considered pollutants of concern for the WPCP. In the interest of streamlining its sewer use regulations and local limits, staff propose to update the local limits for wastewater discharge to remove the local limits for Cresols and Phenols (see Attachment 1 Draft Ordinance).

Staff submitted a request to the Regional Board to update the local limits in September 2020. A change to local limits for wastewater water discharge is considered a "substantial modification" to the City's Pretreatment Programs according to federal regulations (40 CFR §403.18). In accordance with the regulations, this modification may be approved without additional public notice from Regional Board if the City conducts the required noticing and no substantive comments to the notice are received. In such event, the Regional Board will approve the program modification. The City conducted the required 30-day noticing. See Attachment 2 Public Notice for more information.

The proposed changes will apply to all wastewater dischargers connected to the City's sanitary sewer system. The City would continue to regulate dischargers for the remaining pollutants included in the local limits. The changes will improve program administration, while continuing to protect the WPCP.

FISCAL IMPACT

There is no fiscal impact associated with this recommendation. Funding to implement the Pretreatment Program is in the Operating Budget for the Environmental Services Department, Program 14700 - Regulatory Programs.

PUBLIC CONTACT

Consistent with requirements to satisfy noticing by the Regional Board, public notice of this recommendation was made with 30 days available for public comment. The public notice (Attachment 2) was posted on the City's website at Sunnyvale.ca.gov/Pretreatment, emailed to all current wastewater discharge permit holders, and emailed to agencies required in the federal regulations (U.S. Fish and Wildlife Service, California Department of Fish and Wildlife, and the Association of Bay Area Governments). In addition, the notice was published in the Sunnyvale Sun on May 28, 2021.

The public comment period to satisfy the noticing requirements of the Regional Board concludes with the public hearing to adopt the ordinance. Staff has received no public comment to date and will provide a summary of comments, if any are received, during the staff presentation at the meeting. If objections are received, staff would advise Council to continue the item to a future meeting date to allow time for staff to confer with Regional Board staff on their position regarding approval of the program change.

Public contact was also made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, Sunnyvale Public Library and Department of Public Safety. In addition, the agenda and report are available at the Office of the City Clerk and on the City's website.

ALTERNATIVES

1. Introduce an Ordinance to amend Section 12.12.120 (Local Limits for Wastewater) of Chapter

12.12 (Sewer Use Regulations) of Title 12 (Water and Sewers) of the Sunnyvale Municipal Code, and find that this action is categorically exempt from CEQA pursuant to Section 15308 of the CEQA Guidelines.

2. Do not introduce an Ordinance and provide direction to staff if modifications are desired.

STAFF RECOMMENDATION

Alternative 1: Introduce an Ordinance to amend Section 12.12.120 (Local Limits for Wastewater) of Chapter 12.12 (Sewer Use Regulations) of Title 12 (Water and Sewers) of the Sunnyvale Municipal Code, and find that this action is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15308 of the CEQA Guidelines.

Updating the local limits will streamline program administration while still protecting water quality. No alternative which includes modifications to the Ordinance is proposed as substantive modifications would require re-noticing and additional coordination with the Regional Board to comply with regulatory requirements.

Prepared by: Melody Tovar, Regulatory Programs Division Manager

Reviewed by: Ramana Chinnakotla, Director, Environmental Services Department

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Draft Ordinance to Amend Section 12.12.120 (Local Limits for Wastewater) of Chapter 12.12 (Sewer Use Regulations) of Title 12 (Water and Sewers) of the Sunnyvale Municipal Code.
2. Public Notice for Modification to City of Sunnyvale Pretreatment Program and Municipal Code.