



## AGENDA REPORT SUMMARY

**Meeting Date:** November 15, 2022

**Subject:** Municipal Regional Stormwater Permit: Overview of New Requirements

**Prepared by:** Thanh Nguyen, Senior Civil Engineer

**Reviewed by:** Aida Fairman, Environmental Services and Utilities Director

**Approved by:** Gabriel Engeland, City Manager

**Attachment:**

None

**Initiated by:**

Staff; NPDES permit reissuance by Water Board

**Previous Council Consideration:**

None

**Fiscal Impact:**

No direct fiscal impact associated with this report, though compliance with new requirements in the NPDES permit may have fiscal impacts

**Environmental Review:**

The project is exempt from the California Environmental Quality Act (CEQA) Guidelines 15308 as an action taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment, and none of the findings stated in CEQA Guidelines Section 15300.2 can be made.

**Policy Questions for Council Consideration:**

None

**Summary:**

- On May 11, 2022, the Regional Water Board adopted the third iteration of the Municipal Regional NPDES Permit (i.e., MRP 3.0).
- The reissued MRP includes requirements that 79 cities, towns, counties, and flood control districts surrounding San Francisco Bay, including the City of Los Altos must implement to reduce the impacts of stormwater runoff on local creeks and the San Francisco Bay.
- This Staff Report provides a brief background on the reissued MRP and describes the main changes from the previous permit (MRP 2.0), including new and expanded requirements.

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City Manager

GE

Reviewed By:

City Attorney

JH

Acting Finance Director

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**Staff Recommendation:**

Receive information on the new Municipal Regional Permit (Order R2-2022-0018) adopted by the San Francisco Bay Regional Water Quality Control Board (Regional Water Board) on May 11, 2022, and effective July 1, 2022



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**Purpose**

Inform the City Council of the changes to the stormwater regulations affecting Los Altos.

**Background**

Rain that falls onto urban areas flows into local creeks and waterways through storm drain systems. This water is collectively known as “stormwater” or “urban runoff.” Stormwater in Santa Clara Valley can carry pollutants that are on streets, sidewalks, parking lots, roofs and automobiles to local surface waters, and eventually to San Francisco Bay. Public agencies manage stormwater to protect aquatic habitat, public health, recreation, and other beneficial uses of our creeks, lakes, wetlands and Bay.

The State of California began requiring actions to prevent or manage the impacts of urban runoff in 1990. The City of Los Altos is subject to the requirements described in the Municipal Regional NPDES Permit (i.e., MRP 3.0), which was recently adopted by the San Francisco Bay Regional Water Quality Control Board (Regional Water Board) and became effective on July 1, 2022. The reissued permit applies to 79 cities, towns, counties, and flood control agencies that discharge stormwater to San Francisco Bay, collectively referred to as Permittees. The City of Los Altos participates in the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) to coordinate stormwater management activities and implements some of the requirements in MRP 3.0 at the countywide level on behalf of Permittees.

The Regional Water Board’s authority to issue MRP 3.0 is derived from the U.S. Environmental Protection Agency’s National Pollutant Discharge Elimination System (NPDES), which was developed under the Federal Clean Water Act and implemented by the State of California. The first MRP (“MRP 1.0”) was adopted on October 14, 2009 and reissued on November 11, 2015 (“MRP 2.0”), and May 11, 2022 (“MRP 3.0”).

The Permit requires the reduction of key pollutants, which include trash, mercury, polychlorinated biphenyls or PCBs, and others, in stormwater. The Permit also requires the implementation of urban runoff controls for land development and redevelopment projects, inspection programs for businesses and construction sites, education and outreach, and monitoring water quality and the effectiveness of these actions. The City of Los Altos implements several programs to address the many requirements of the permit. City staff report annually to the Water Board, as required by the permit, on the actions, inspections, outreach, plans, and achievements made in compliance with the regulations.

**Discussion/Analysis**

MRP 3.0 is a complex Permit that maintains and increases the regulatory requirements that public agencies comply with to address potential impacts associated with discharges to local creeks and the San Francisco Bay from municipal storm drain systems. There are a number of requirements



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expanded from MRP 2.0 and several new requirements. Table 1 lists the key MRP 3.0 provisions that are applicable to Permittees in Santa Clara County and identifies whether the changes to the requirements are new, significant, or minor.

**Table 1. MRP 3.0 Provisions that are applicable to Santa Clara County Permittees.**

Provision	Significance of Change from MRP 2.0
C.2. Municipal Operations	Minor
C.3. New Development and Redevelopment	Significant
C.4. Industrial and Commercial Site Controls	Minor
C.5. Illicit Discharge Detection and Elimination	Minor
C.6. Construction Site Control	Minor
C.7. Public Information and Outreach	Minor
C.8. Water Quality Monitoring	Significant
C.9. Pesticides Toxicity Control	Minor
C.10. Trash Load Reduction	Significant
C.11. Mercury Controls	Significant
C.12. Polychlorinated Biphenyls (PCBs) Controls	Significant
C.13. Copper Controls	Minor
C.14. Bacteria Control for Impaired Water Bodies <i>(Mountain View and Sunnyvale Only)</i>	New
C.15. Exempted and Conditionally Exempted Discharges	Minor
C.17. Discharges Associated with Unsheltered Homeless	New
C.20. Cost Reporting	New
C.21. Asset Management	New

*Summary of Significant Changes and New Requirements in MRP 3.0:*

Changes in Provision C.3 - New Development and Redevelopment Projects

New development and redevelopment projects above certain impervious surface area thresholds are required to treat stormwater runoff using Low Impact Development (LID) techniques or Green Stormwater Infrastructure (GSI). These techniques include the construction of bioretention areas, pervious pavement, and infiltration structural control measures. MRP 3.0 reduces the impervious



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surface area thresholds from 10,000 sf to 5,000 sf for most types of projects. Beginning July 1, 2023, the following projects will be required to implement LID treatment:

- Private and public new development and redevelopment projects that replace/create  $\geq$  5,000 sf of impervious area.
- New roads or lane additions that replace/create  $\geq$  5,000 sf of impervious area
- Some road repair or improvement activities  $\geq$  5,000 sf of contiguous impervious area
- Road reconstruction and pavement widening projects that create/replace  $\geq$  1 acre of contiguous impervious area, including major utility trenching projects
- Single-family homes that create/replace  $\geq$  10,000 sf of impervious area

MRP 3.0 allows some smart growth/high-density projects to use non-LID treatment methods if LID methods are infeasible. Allowances for transit-oriented projects have been replaced in MRP 3.0 with allowances for affordable housing projects.

Permittees are also required to retrofit existing public streets and parking lots to treat stormwater runoff with LID/GSI measures. The City of Los Altos must construct GSI projects during permit term to meet the MRP 3.0 target of 3 acres treated per 50,000 population (City of Los Altos target is 1.81 acres). The target can be met at the countywide level, however, the City of Los Altos must individually implement at least one GSI project, with a minimum of 0.2 acres treated.

Compliance with the new/enhanced requirements in provision C.3 are anticipated to require additional resources compared to compliance with MRP 2.0 requirements.

#### Changes in Provision C.10 Section – Trash Controls

Permittees are required to continue implementing control measures and other actions to reduce trash loads from municipal storm drain systems and achieve the following trash reduction benchmarks (relative to established baseline levels):

- 90 percent trash reduction by June 30, 2023; and
- 100 percent trash reduction by June 30, 2025

To meet these benchmarks, the City of Los Altos may need to construct/install additional trash control devices within their storm drain system, increase the frequency of inspecting/maintaining these devices, enhance street sweeping or other litter abatement activities, and/or require private land areas that generate significant levels of trash to implement controls to address trash on their properties.

MRP 2.0 allowed the City of Los Altos to receive credits for source control ordinances (e.g., plastic bag and expanded polystyrene food service ware bans) and offsets for creek/shoreline cleanup activities, however under MRP 3.0, these offsets/credits will be eliminated after June 30, 2025. With the elimination of these offsets/credits, the City of Los Altos will likely need to expand the



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extent of trash controls implemented to achieve the 90% and 100% trash reduction benchmarks. The City is currently working through SCVURPPP and internally to evaluate whether additional trash controls are needed and the associated costs of complying with MRP 3.0 provision C.10 requirements. If the City cannot achieve the 90% reduction milestone (without source control credits and offsets) by July 1, 2023, the City will be required to submit a Revised Long-term Trash Load Reduction Plan to the Regional Water Board by September 2023 that describes the enhanced/new controls that will be implemented to achieve the 100% benchmark by July 2025. Compliance with the new/enhanced requirements in provision C.10 are anticipated to require additional resources compared to compliance with MRP 2.0 requirements.

#### Changes in Provisions C.11 and C.12 - Mercury/Polychlorinated Biphenyls (PCBs) Controls

PCBs and mercury are legacy pollutants that were once commonly used in industrial and electrical applications, building materials, and household items. The U.S. banned the production of PCBs over 40 years ago and the extent of mercury sources/uses has decreased, but past pollution continues to linger in Bay Area soils and waters. These MRP provisions require Permittees to implement source control measures (e.g., managing building demolition waste), treatment control measures (e.g., implementing GSI), and outreach measures (e.g., proper disposal of mercury containing products) to continue to address the levels of these pollutants in stormwater. MRP 3.0 adds requirements to implement to controls to address stormwater runoff from older industrial areas (a total of 664 acres in Santa Clara County) and controls that reduces the risk of PCBs in bridges and overpasses (when repaired or replaced) from entering stormwater. The City of Los Altos is currently working through SCVURPPP to develop a plan that identifies the controls needed to address MRP 3.0 provision C.11/12 requirements and an implementation schedule. This plan will be submitted to the Regional Water Board by March 31, 2022.

Compliance with the new/enhanced requirements in provision C.11/12 are anticipated to require additional resources compared to compliance with MRP 2.0 requirements.

#### Changes in Provision C.8 – Water Quality Monitoring

There are significant changes to the water quality monitoring requirements included in MRP provision C.8. Some types of monitoring programs that assessed creek health and investigated the sources of pollutants/impacts have been eliminated, however significant new requirements have been added to this provision. Monitoring conducted to comply with this provision is implemented by SCVURPPP on behalf of all Permittees, but requires coordination with Permittees.

- Trash monitoring – MRP 3.0 requires Permittees to collectively monitor levels of trash (e.g., volume, type, and size) discharged from storm drain outfalls during storm events and to conduct pilot programs to monitor trash in creeks/channels during storm events.
- Monitoring effectiveness of LID systems – MRP 3.0 requires Permittees to collectively develop and implement a program to monitor multiple LID systems to better understand their ability to intercept pollutants and reduce hydrologic impacts to local creeks.



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Compliance with the new/enhanced requirements in provision C.8 are anticipated to require additional resources compared to compliance with MRP 2.0 requirements.

*New Provisions in MRP 3.0*

MRP 3.0 adds three new provisions, which are briefly described below.

Discharges Associated with Unsheltered Homeless Populations (Provision C.17) - New Requirement

MRP 3.0 adds a new requirement to address potential stormwater quality concerns associated with unsheltered homeless populations. The City of Los Altos is required to develop maps identifying the approximate location(s) of unsheltered homeless populations, compile information on current practices to manage discharges associated with these populations, and plan for the implementation of enhanced actions to address current/potential stormwater quality concerns. The City of Los Altos will coordinate through SCVURPPP to comply with this requirement.

Cost Reporting (Provision C.21) – New Requirement

MRP 3.0 includes a new provision that requires Permittees to develop a regional cost reporting framework and methodology by June 30, 2023. Starting in FY 2024-25, the City of Los Altos will be required to track its costs of complying with the MRP and submit these cost estimates annually to the Regional Water Board, using the approved framework.

Asset Management (Provision C.22) - New Requirement

MRP 3.0 includes a new provision that requires Permittees to develop and implement an Asset Management Plan in order to ensure the satisfactory condition of all publicly owned water quality-related assets (e.g., stormwater treatment controls and trash capture devices) constructed during this permit and previous permit terms. SCVURPPP is assisting with the development the program-wide Asset Management Plan and discussions have begun among all SCVURPPP member agencies about the best approach to complying with this requirement.

**Recommendation**

Receive information on the new Municipal Regional Permit (Order R2-2022-0018) adopted by the San Francisco Bay Regional Water Quality Control Board (Regional Water Board) on May 11, 2022 and effective July 1, 2022