

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF WATER QUALITY
APRIL 7, 2015**

ITEM 8

SUBJECT

CONSIDERATION OF THE AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE OCEAN WATERS OF CALIFORNIA TO CONTROL TRASH AND PART 1 TRASH PROVISIONS OF THE WATER QUALITY CONTROL PLAN FOR INLAND SURFACE WATERS, ENCLOSED BAYS, AND ESTUARIES OF CALIFORNIA

DISCUSSION

Trash is a significant pollutant in California's waters that adversely affects numerous beneficial uses including, but not limited to, wildlife habitat (WILD), marine habitat (MAR), preservation of rare and endangered species (RARE), fish migration (MIGR), navigation (NAV), and water contact and non-contact recreation (REC1 and REC2). A consistent statewide approach is needed to control trash discharges into surface waters of the state. State Water Resources Control Board (State Water Board) staff is proposing an amendment to the Water Quality Control Plan for Ocean Waters of California (Ocean Plan) to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California (ISWEBE Plan) (collectively referred to as the "Trash Amendments"). The proposed Final Trash Amendments include the following six primary elements:

- (1) A narrative water quality objective,
- (2) A prohibition of discharge,
- (3) Corresponding applicability,
- (4) Implementation provisions,
- (5) A time schedule, and
- (6) Monitoring and reporting requirements.

Implementation of the proposed Trash Amendments will occur through National Pollution Discharge Elimination System Storm Water Permits (municipal separate storm sewer system phase I and phase II permits, California Department of Transportation permit, industrial general permit, and construction general permit), waste discharge requirements (WDRs), and waivers of WDRs.

The proposed Trash Amendments apply to all surface waters of the state, with the exception of the waters subject to existing trash and debris total maximum daily loads (TMDLs) in the jurisdiction of the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board). A central feature of the Trash Amendments is a land-use based compliance approach to target high-trash generating areas. The goal for the proposed Trash Amendments is to provide statewide consistency for the State Water Resources Control Board and Regional Water Quality Control Boards' (collectively Water Boards) regulatory approach to protect beneficial uses and reduce environmental issues associated with trash in state waters by focusing limited resources on high trash generating areas.

POLICY ISSUE

1. Should the State Water Board approve and adopt the (revised) Proposed Final Staff Report, including the Substitute Environmental Documentation (SED), for the proposed final Trash Amendments?
2. Should the State Water Board adopt the proposed amendment to the Ocean Plan to Control Trash and Part 1 Trash Provisions of the ISWEBE Plan to control trash in surface waters of the state?

FISCAL IMPACT

The Trash Amendments propose to require the Water Boards to implement trash control provisions in applicable discharge permits. The Water Boards will implement the proposed trash control provisions with existing resources.

REGIONAL BOARD IMPACT

The Trash Amendments are applicable to all surface waters in the state and will impact waters within all Regional Water Quality Control Boards. There is an exception to waters within the jurisdiction of the Los Angeles Water Board that currently have existing trash and debris TMDLs in effect prior to the adoption of the proposed Trash Amendments.

STAFF RECOMMENDATION

Staff recommends that the State Water Board adopts the proposed amendment to the Ocean Plan to Control Trash and Part 1 Trash Provisions of the ISWEBE Plan and approves the (revised) Proposed Final Staff Report, including the SED, for the proposed final Trash Amendments.

<p>State Water Board action on this item will assist the Water Boards in reaching Goals 1 and 6 of the Strategic Plan Update: 2008-2012 to narrative of goal(s) and complete a 2012 Board Priority Action. In particular, approval of this item will assist in fulfilling Action 1.1.3 and Objective 6.</p>

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION 2015-

AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR OCEAN WATERS OF CALIFORNIA TO CONTROL TRASH AND PART 1 TRASH PROVISIONS OF THE WATER QUALITY CONTROL PLAN FOR INLAND SURFACE WATERS, ENCLOSED BAYS, AND ESTUARIES OF CALIFORNIA

WHEREAS:

1. The State Water Resources Control Board (State Water Board) adopted the Water Quality Control Plan for the Ocean Waters of California (Ocean Plan) in 1972 and last revised it in 2012.
2. On March 15, 2011, the State Water Board adopted the California Ocean Plan Triennial Review Workplan (2011-2013) by [Resolution 2011-0013](#), directing State Water Board staff to review the high priority issues identified in the workplan, including the control of plastic debris and other trash, and make recommendations for any necessary changes to the Ocean Plan.
3. Trash in the State's surface waters is a pervasive problem and adversely affects numerous beneficial uses including, but not limited, to wildlife habitat, marine habitat, preservation of rare and endangered species, fish migration, navigation, and water contact and non-contact recreation.
4. Studies show that trash is predominantly generated on land and then transported to a receiving water body. The main transport pathway of trash to receiving water bodies is through storm water transport.
5. In accordance with Clean Water Act section 303(d), the 2010 Integrated Report identifies seventy-three water segments as impaired for trash or debris in California.
6. Water quality objectives adopted by the nine Regional Water Quality Control Boards (referred to collectively as Regional Water Boards and individually as Regional Water Board) vary for trash. The State Water Board and Regional Water Boards implement trash controls through various means, including storm water permits, adopting and implementing total maximum daily loads (TMDLs), and waste discharge requirements. Waters continue to be impaired by trash, the regulatory control approaches vary, and there is a need for statewide uniformity to control trash.
7. The State Water Board is authorized to revise and adopt water quality control plans in accordance with the provisions of Water Code sections 13240 through 13244 for waters for which water quality standards are required by the federal Clean Water Act. (Water Code § 13170.)

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8. The goal of the Amendment to the Ocean Plan and Part I Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California (ISWEBE Plan) (collectively referred to as the Trash Amendments or individually as Trash Amendment) is to address the impacts of trash to the surface waters of California through the establishment of a statewide narrative water quality objective and implementation requirements to control trash, including a prohibition against the discharge of trash.
9. The Staff Report developed for the Trash Amendments, titled “Proposed Final Staff Report, including the Substitute Environmental Documentation” is a detailed technical document that analyzes and describes the necessity and rationale for the development of the statewide water quality objective and the implementation plan to control trash.
10. Pursuant to Water Code section 13170, a water quality control plan adopted by the State Water Board supersedes a water quality control plan adopted by a Regional Water Board, to the extent any conflict exists for the same waters. There are no conflicts between the Trash Amendments and any existing water quality control plan.
11. The Trash Amendments apply to all surface waters of the State, with the exception of those waters within the jurisdiction of the Los Angeles Regional Water Board where trash or debris TMDLs are in effect prior to the effective date of the Trash Amendments.
12. The water quality objective shall be implemented through the prohibition of discharge and other implementation requirements through permits issued pursuant to section 402, subsection (p), of the Clean Water Act, waste discharge requirements, or waivers of waste discharge requirements.
13. In accordance with Water Code section 13241, in establishing the narrative water quality objective for trash, the State Water Board considered, as discussed more fully in the Staff Report (at Section 9 and Appendix C), the applicable factors in establishing the narrative water quality objective for trash: the past, present, and probable future beneficial uses of surface waters that can be impacted by trash; environmental characteristics of these waters; water quality conditions that could reasonably be achieved through a coordinated control effort, and economic considerations. Adoption of the Trash Amendments is unlikely to affect housing needs or the development or use of recycled water.
14. In developing, considering, and adopting the Trash Amendments, the State Water Board complied with the procedural requirements contained in the regulations applicable to the State Water Board’s certified exempt regulatory programs to comply with the California Environmental Quality Act (CEQA) (23 Cal. Code Regs. §§ 3720-3780):
 - a. On June 26, 2007, the State Water Board held a public scoping meeting in San Francisco regarding a potential amendment to the Ocean Plan to address trash and solicited comments from the public and public agencies on the scope of the project, alternatives, reasonably foreseeable methods of compliance, and the content of the environmental analysis to be considered in the development of the project.
 - b. On October 7 and 14, 2010, the State Water Board sought public consultation in Rancho Cordova and Chino, respectively, regarding a statewide policy for controlling trash in waters of the state, and solicited comments on the scope and content of the environmental information to be considered in the development of the project.

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- c. The State Water Board convened a Public Advisory Group composed of ten stakeholders representing municipalities, California Department of Transportation, industry, and environmental groups. The Public Advisory Group met on July 26, 2011, August 30, 2011, October 12 and 13, 2011, May 22, 2012, August 13, 2012, and March 6, 2013 to provide comments on, and feedback to, the development of the proposed Trash Amendments and Draft Staff Report.
 - d. In March, April, and May 2013, State Water Board held fourteen focused stakeholder meetings to provide an overview of the development of the proposed Trash Amendments and to receive feedback on key issues prior to the development and distribution of the proposed Trash Amendments and the Draft Staff Report.
 - e. On June 10, 2014, the State Water Board provided notice to members of the public and public agencies of the opportunity to submit written comments on the proposed Trash Amendments and the Draft Staff Report; the written comment period; and the dates for the public workshop and public hearing to receive oral comments and evidence regarding the proposed Trash Amendments.
 - f. During the written public comment period, the State Water Board conducted a public workshop on July 16, 2014, and a public hearing on August 5, 2014, to solicit public comment and testimony regarding the proposed Trash Amendments and Draft Staff Report.
 - g. The State Water Board provided written responses to seventy-six written public comment letters timely received and three written comment letters received after the comment deadline.
 - h. Based on the oral and written comments, the State Water Board revised the proposed Trash Amendments and Draft Staff Report. On December 31, 2014, the State Water Board distributed and posted the proposed Final Trash Amendments and proposed Final Staff Report.
 - i. On February 12, 2015, the State Water Board provided a forty-five day notice to the public that the State Water Board would hold a public meeting to consider the adoption of the proposed Final Trash Amendments and approval of the Final Staff Report.
15. The Staff Report satisfies the substantive requirements applicable to the State Water Board's certified exempt regulatory programs to comply with CEQA.
- a. The Staff Report contains a description of the project, a completed environmental checklist, an identification of any significant or potentially significant adverse impacts of the project; an analysis of reasonable alternatives to the project and mitigation measures; and an environmental analysis of the reasonably foreseeable methods of compliance, including a reasonable range of environmental, economic, and technical factors, population and geographic areas. (23 Cal. Code Regs. § 3777, subds. (a)-(c).)

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- b. The State Water Board is the lead agency for the proposed Trash Amendments. In preparing the Staff Report's environmental analysis pertaining to the reasonably foreseeable methods of compliance, the State Water Board is "not required to conduct a site-specific project level analysis of the methods of compliance, which CEQA may otherwise require of those agencies who are responsible for complying with the plan or policy when they determine the manner in which they will comply." (Id. § 3777, subd. (c).). Dischargers that have the Trash Amendment's implementation requirements incorporated into their respective permits will be required to select the specific method or methods to employ to achieve compliance. Project-level analysis is expected to be conducted by the appropriate public agency prior to implementation of project-specific methods of compliance for the proposed Trash Amendments. The environmental analysis in the Staff Report assumes that the project specific methods of compliance would be designed, installed, and maintained following all applicable state and local laws, regulations, and ordinances.
 - c. The Final Substitute Environmental Documentation consists of the Draft Staff Report dated June 10, 2014, the Proposed Final Staff Report, comments and responses to comments on the Draft Staff Report and the proposed Trash Amendments, the environmental checklist, and this resolution. (Id. §§, 3777, 3779.5, subd. (b).)
16. Pursuant to Health and Safety Code section 57004, the Draft Staff Report and proposed Trash Amendments underwent external scientific peer review through an interagency agreement with the University of California. Peer review was solicited on March 10, 2014 and completed on July 14, 2014.
 17. Adoption of the Trash Amendments is consistent with the State Antidegradation Policy (State Water Board [Resolution 68-16](#)) and the federal Antidegradation Policy (40 CFR § 131.12).
 18. The Trash Amendments do not become effective until approved by the State Office of Administrative Law (OAL) and the Trash Amendments' narrative water quality objective for trash does not become effective until approved by the United States Environmental Protection Agency (U.S. EPA).

THEREFORE, BE IT RESOLVED THAT:

1. In accordance with California Code of Regulations, title 23, section 3779.5, subdivision (c), and California Code of Regulations, title 14, section 15091, subdivision (a)(2), the State Water Board hereby finds there are potentially significant impacts to air quality, biological resources, cultural resources, geology/soil resources, hazards and hazardous materials, hydrology/water quality, noise and vibration, public services, transportation/traffic, and utilities/ service systems and potentially cumulative significant impacts related to noise and vibration, air quality, transportation and circulation, utilities and service systems, and greenhouse gas emissions by some of the reasonably foreseeable methods of compliance. As discussed in the Staff Report, potentially significant impacts to air quality and potentially cumulative significant impacts related to noise and vibration, air quality, transportation and circulation, utilities and service systems, and greenhouse gas emissions may arise from the installation and maintenance of one or more the different types of the full capture systems and street sweeping. Also as discussed in the Staff Report, potentially significant impacts

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to biological resources, cultural resources, geology/soil resources, hazards and hazardous materials, hydrology/water quality, noise and vibration, public services, transportation/traffic, and utilities/ service systems may arise from the installation and maintenance of one or more the different types of the full capture systems. The Staff Report explains that measures are available for each method of compliance that, if implemented, can reduce or eliminate those impacts. Selection of the methods of compliance and mitigation measures are not under the control or discretion of the State Water Board, and to the extent they are within the responsibility and jurisdiction of other public agencies, such public agencies will be required to comply with CEQA in approving the methods of compliance. Such agencies have the ability to implement the mitigation measures, can and should implement the mitigation measures, and are required under CEQA to consider whether to implement the mitigation measures when the agencies undertake their own evaluation of impacts associated with specific activities to comply with the Trash Amendments.

2. The State Water Board hereby approves and adopts the [Final CEQA Substitute Environmental Documentation](#), which was prepared, where appropriate, in accordance with the provisions applicable to the State Water Board's certified exempt regulatory programs, California Code of Regulations, title 23, sections 3777 through 3779.
3. After considering the entire administrative record, including all oral testimony and comments received at the adoption meeting, the State Water Board hereby adopts the Trash Amendments, which are specifically titled the Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash ([Appendix D](#) of the Staff Report) and Part I Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California ([Appendix E](#) of the Staff Report).
4. The State Water Board directs the Regional Water Boards to periodically report to the State Water Board on the status of the implementation of the Trash Amendments, at a minimum within three and seven years following the first implementing permit within a respective region.
5. The State Water Board directs the Los Angeles Water Board to convene a public meeting within a year of the effective date of the Trash Amendments to reconsider the scope of its trash TMDLs, with the exception of the TMDLs for the Los Angeles River and Ballona Creek watersheds, and to consider an approach that would focus municipal separate storm sewer systems (MS4) permittees' trash control-efforts on high-trash generation areas within their jurisdiction.
6. The Regional Water Boards, within eighteen months of the effective date of the Trash Amendments, and for each NPDES MS4 permittee within their respective region subject to either of the Trash Amendments, shall comply with the time schedules contained therein.
7. The State Water Board, within eighteen months of the effective date of the Trash Amendments, and for each NPDES MS4 permittee subject to either of the Trash Amendments, shall comply with the time schedules contained therein.
8. The Executive Director or designee is authorized to submit the Trash Amendments to OAL and the U.S. EPA for review and approval.

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9. The Executive Director or designee is authorized to make minor, non-substantive modifications to the language of the Trash Amendments, if OAL determines that such changes are needed for clarity or consistency, and inform the State Water Board of any such changes.
10. The State Water Board directs State Water Board staff, upon approval by OAL, to file a Notice of Decision with the Secretary for Natural Resources and transmit payment of the applicable fee as may be required to the Department of Fish and Wildlife pursuant to Fish and Game Code section 711.4.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on April 7, 2015.

Jeanine Townsend
Clerk to the Board