

**Response to Comments
Category B: Trash Provisions**

Sub-category #	Comments Category
B.1	General
B.2	Order, Part III.C – Trash Discharge Prohibitions
B.3	Order, Part IV.B.3 – Water Quality-Based Effluent Limitations (WQBELs) for Trash
B.4	Order, Part X.C – Compliance Determination for Trash WQBELs and Receiving Water Limitations
B.5	Order, Part XI.B – Enforcement for Trash TMDLs

The below table includes all significant comments on the tentative permit sections described above and the corresponding Fact Sheet sections.

#	Commenter(s)	Comment	Response
B.1.1	Nina Danza	<p>Finally, trash and plastic waste must stop flowing out to the marine environment from the major rivers in the region. All of these problems are insufficiently incorporated and resolved in the proposed regional permit.</p> <p>Trash Elimination. The permit contains requirements to use trash containment devices such as at catch basins or end of pipe locations. However a great deal of trash is not captured by any of the programs described in the permit. Trash is VERY prevalent in water courses and rivers, and is highly damaging if not eliminated because it flows to the beach and marine environment causing long term and widespread pollution in the ocean.</p>	<p>No change. The Board agrees that trash is a serious water quality problem. To address this problem, the Board and U.S. EPA have established 15 trash TMDLs for the following watersheds and waterbodies: Los Angeles River Watershed, Ballona Creek, Malibu Creek Watershed, Santa Monica Bay Nearshore and Offshore, San Gabriel River East Fork, Revolon Slough and Beardsley Wash, Ventura River Estuary, Machado Lake, Lake Elizabeth, Lake Hughes, Munz Lake, Peck Road Park Lake, Echo Park Lake, Lincoln Park Lake and Legg Lake. These TMDLs rigorously analyzed the sources of trash causing and contributing to trash pollution in impaired waters. In most cases, trash impairments are a result of both point sources (e.g., stormwater) and nonpoint sources (e.g., direct deposition into</p>

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		<p>A far more rigorous program in the permit is necessary to clean trash from watercourse corridors. Zero trash discharge should mean ZERO trash flowing out a River mouth. Not a once a month clean up at a transect or some weak substitute.</p> <p>I am particularly focused on the Santa Clara River and trash is present everyday at the north bank and other areas of the Santa Clara River (see example photos below). Another very bad situation on the 1-mile long Hwy 101 pedestrian bridge over the Santa Clara River. Trash accumulates rapidly, weekly, along the entire bridge length and drop directly down into the River waterline. All of this trash flows very quickly to the estuary and into the ocean in storms. No or almost no maintenance is performed by the land owners or the county or CalTrans. That the latter is not a regional permit permittee is irrelevant, this is a watershed problem and your permit needs to provide successful solutions. LARWQCB must work out a funding program to remove trash frequently and completely to fulfill your agency mandate of protecting state waters.</p>	<p>rivers by wind or littering). The Los Angeles Water Board relies on a variety of regulatory tools depending on the source of the trash to implement these TMDLs. Even where TMDLs are adopted on a watershed scale, different regulatory authority will be implicated for different responsible parties such that different permits must be issued to address the same problem. For example, discharges from municipal separate storm sewer systems (MS4s) are subject to the federal requirements in the Clean Water Act and must be regulated by NPDES permits whereas certain nonpoint sources of trash are only subject to state law and must be regulated through a regulatory tool in the Porter-Cologne Water Quality Control Act (Wat. Code § 13000 et seq.). Given that stormwater discharges from Caltrans cross every region in the State, these discharges are regulated by the State Water Resources Control Board (State Water Board) rather than by the Tentative Permit. Furthermore, the significant trash generating areas under the jurisdiction of MS4 Permittees are different than those under the jurisdiction of Caltrans and are appropriately regulated by different permits.¹</p>

¹ The Final Staff Report for the Trash Amendments identified significant trash generating areas under the jurisdiction of Caltrans as areas such as highways, on/off ramps, and rest areas. By contrast, trash control efforts for municipalities are

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			<p>Where a trash TMDL identified MS4 discharges as a source of trash, wasteload allocations were assigned and are implemented in the Tentative Permit as water quality-based effluent limitations (WQBELs).</p> <p>For areas not addressed by a trash TMDL, the Tentative Permit requires Permittees to implement trash controls in Priority Land Uses, designated land uses, and/or equivalent land uses, consistent with the Statewide Water Quality Control Plans for Trash contained in Part 1 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California (ISWEBE Plan) and the Water Quality Control Plan for Ocean Waters of California (California Ocean Plan) (collectively, referred to as the Trash Amendments).</p> <p>The Tentative Permit allows Permittees to choose among a wide array of trash controls to achieve the prohibition on the discharge of trash to surface waters and applicable WQBELs for trash. These trash controls include full capture systems or any combination of full capture systems, multi-</p>

focused on certain developed land uses such as high density residential, industrial, and commercial areas (Final Staff Report/Substitute Environmental Documentation for the Trash Amendments (2015) at pages 80-81).

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			<p>benefit projects, other treatment controls, and/or institutional controls.</p> <p>With regard to funding for trash controls, the Los Angeles Water Board and State Water Board have awarded a number of grants to Permittees to implement trash controls and other projects to address stormwater and urban runoff throughout the region.</p>
B.1.2	Teresa Nguyen, High School Student and Redondo Beach Resident	Stormwater pollution has been a long-term issue that still needs to be addressed and taken seriously. The pollution contains toxic chemicals and substances, such as metals, trash, and bacteria, which eventually flow into our rivers and oceans, affecting the ecosystems there. More specifically, I hope that the MS4 permit can simultaneously reduce water pollution and enhance local water supplies. One idea could be installing trash trap systems into our local drainage systems to catch large debris.	No change. The Tentative Permit implements the water quality objectives for trash through a discharge prohibition, receiving water limitations, and WQBELs. To comply with these provisions, MS4 permittees may employ a variety of trash controls, including full capture systems that can catch all particles that are 5 mm or greater that flow through the storm drain.
B.1.3	Southern California Audubon Chapters	<ol style="list-style-type: none"> 1. Hundreds of thousands of Los Angeles County bird and wildlife lovers are concerned with ocean plastic pollution and its worldwide effects on seabirds and other marine life 2. Internationally, millions of concerned people are represented by over 1,200 NGOs in 75 counties 3. Ocean plastic kills or injures marine animals by both ingestion and entanglement 	No change. Comment noted. The Los Angeles Water Board agrees that the prevention and removal of trash from coastal waterbodies will help ensure attainment of water quality objectives for trash in marine waters, and that this, in turn, will aid in the protection of aquatic life and habitat, enhance the quality of recreational opportunities for the public, protect public health, and increase public interest in these

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		<p>– from microscopic zooplankton up the food web to seabirds and even whales</p> <p>4. Specifically, Albatross and Petrels, wide-ranging, surface-feeding, pelagic seabirds, ingest plastic pieces as they smell like food</p> <p>5. It is estimated that over 80% of ocean plastic pollution comes from watersheds within 30 miles of the coast</p> <p>6. It is also estimated that 12% of total annual worldwide plastic production (a huge volume) is deposited into the aquatic environment (oceans, rivers, and lakes)</p> <p>7. Our Los Angeles watershed continues to be a significant contributor to North Pacific Ocean plastic pollution as shown in multiple studies, despite Trash TMDLs in prior MS4 permits</p> <p>8. Plastic cannot be removed from the open ocean for both practical and economic reasons, it must be reduced and constrained at its source - the watersheds - by MS4 permits which include the Trash TMDLs</p> <p>9. The Clean Water Act and its Regional Water Quality Boards have the legal obligation and facilities to minimize trash/plastic ocean pollution emanating from the watersheds</p> <p>10. The proposed LARWQB MS4 Permit which, if they include the approved Trash TMDLs (including Full Capture and Institutional Controls), appear satisfactory but must be fully implemented quickly, actively</p>	<p>waterbodies as valuable recreational and ecological resources. Trash TMDLs were first implemented in MS4 permits in 2001. Over the last 20 years, significant progress has been made to address trash. For example, most MS4 permittees in the Ballona Creek, Calleguas Creek, and Los Angeles River watershed have implemented full capture systems in all permittee-owned storm drains. Local ordinances banning single use plastic bags have been adopted in the cities of Santa Monica, Culver City, Glendale, Long Beach, Los Angeles, Monrovia, Pasadena, Pico Rivera, and South Pasadena and in Los Angeles County. Qualitative observations have shown a reduction of trash since adoption of the 15 trash TMDLs in the Los Angeles Region. However, the Los Angeles Water Board recognizes that trash remains a significant issue in many of the waters in the Los Angeles Region. To address this ongoing problem, the State Water Board and Los Angeles Water Board utilize different regulatory authorities and mechanisms for different responsible parties such that different permits must be issued to address the same problem. For example, to address plastic pollution, the State Water Board also regulates discharges from preproduction plastic manufacturing, handling, and transport facilities enrolled under California's General NPDES Permit for Storm Water</p>

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		monitored, transparently reported, and rigorously enforced through fines for non-compliance, by way of an effective MFAC Program.	Discharges from Industrial Activities (IGP). Additionally, when the Los Angeles Water Board revised the Los Angeles River Trash TMDL in 2015, it added a requirement for Los Angeles County and City of Long Beach MS4 Permittees to prepare a Plastic Pellet Monitoring and Reporting Plan (PMRP) to (i) monitor the amount of plastic pellets being discharged from the MS4; (ii) establish triggers for increased industrial facility inspections and enforcement of SWPPP requirements for industrial facilities identified as responsible for the plastic pellet WLA herein; and (iii) address possible plastic pellet spills (see Basin Plan, p. 7-23). The tentative permit contains monitoring and reporting requirements and compliance determination provisions to ensure that the methods of trash compliance, such as full capture systems and MFAC programs, are timely implemented, effectively monitored, transparently reported, and rigorously enforced.
B.1.4	Mithsy Hernandez on behalf of various NGOs	Dry-weather runoff and stormwater runoff are also leading causes of plastics and trash in our waters. Plastics, which stay in our environment for up to 1,000 years and never fully biodegrade, threaten hundreds of species of marine animals and kill one million sea birds worldwide annually. Recent studies have found that plastics may outweigh fish in the ocean by 2050.	No change. Comment noted. See response to comment B.1.3.

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B.1.5	Heal the Bay, the Natural Resources Defense Council, and Los Angeles Waterkeeper	<p>Trash and plastic pollution seriously threaten the physical, chemical, and biological integrity of our waters, negatively affecting both public and environmental health. Trash can cause injury and/or death to marine life from ingestion and entanglement, and can harbor and transport contaminants including bacteria, toxins, and even invasive species. According to the 2014/2016 303(d) List, 54 waterbodies are listed as impaired by trash pollution in the Los Angeles Region. [footnote] 3 Many of the final TMDL deadlines to address trash pollution have already passed including the Ballona Creek Trash TMDL (2015), [footnote] 4 LA River Trash TMDL (2014), [footnote] 5 and Santa Monica Bay Nearshore and Offshore Debris TMDL (2020). [footnote] 6 However, deleterious amounts of trash continue to accumulate in and around our waterways throughout the Los Angeles Region. We must ensure that trash TMDL requirements are implemented and enforced through the Los Angeles Regional MS4 Permit. [footnote 3]: California State Water Resources Control Board, Final 2014/2016 California Integrated Report (Clean Water Act Section 303(d) List / 305(b) Report): Data Download: 303(d) List – Excel File (without potential sources). Available at: https://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2014_2016.shtml</p>	No change. Comments noted. See response to comment B.1.3.

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		<p>[footnote 4]: California Regional Water Quality Control Board Los Angeles Region, 2001, Trash Total Maximum Daily Loads for the Ballona Creek and Wetlands. Available at: https://www.waterboards.ca.gov/losangeles/board_decisions/basin_plan_amendments/technical_documents/2001-014/01_0919_bc_Ballona%20Creek%20Trash%20TMDL.pdf</p> <p>[footnote 5]: California Regional Water Quality Control Board Los Angeles Region, 2007, Trash Total Maximum Daily Loads for the Los Angeles River Watershed. Available at: https://www.waterboards.ca.gov/losangeles/board_decisions/basin_plan_amendments/technical_documents/2007-012/09_0723/L.%20A.%20River%20Trash%20TMDL_Final%20%20Staff%20Report_August%209,%202007.pdf</p> <p>[footnote 6]: California Regional Water Quality Control Board Los Angeles Region, 2010, Santa Monica Bay Nearshore and Offshore Debris TMDL. Available at: https://www.waterboards.ca.gov/losangeles/board_decisions/basin_plan_amendments/technical_documents/72_New/SMB%20Debris%20Staff%20Report%20102510.pdf</p>	
B.1.6	Heal the Bay, the Natural Resources	<i>The Regional Board should consider using community science to crowdsource trash monitoring data.</i>	No change. The State Water Board has, in fact, already supported a trash monitoring app. In 2010, the State Water Board and IBM

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	Defense Council, and Los Angeles Waterkeeper	<p>There are many examples of community science initiatives where everyday people collaborate with scientists to tackle the global challenges we all face. Addressing issues like protecting endangered species and safeguarding water resources are complicated and often require more eyes, time, and resources than scientists or agencies possess. Through technology, nonprofessional scientists can collect data locally, for example documenting the presence of certain bird populations and using smartphone sensors to monitor water and air quality.</p> <p>Trash TMDLs in the Los Angeles Region include a numeric goal to achieve zero trash in our waterways. As discussed above, for many waterbodies, the deadline to achieve this goal has already passed. However, Heal the Bay and partner organizations facilitate hundreds of beach and inland cleanup events each year to remove this trash pollution. In 2019, our volunteers and partners collected 36,529 lbs. of trash from beach and river cleanup events, which includes the 30,165 lbs. of trash collected on a single day at 79 countywide cleanup sites on Coastal Cleanup Day. We counted 217,624 pieces of trash, 117,148 pieces of polystyrene, and 21,843 plastic wrappers in total in 2019 alone. Over the past 20 years,</p>	<p>developed the Creek Watch App for people to monitor trash in their local watersheds. Unfortunately, the app is no longer supported by IBM and is not available for download. In addition, most of the data collected via the app were in the San Francisco Bay area and had limited use in the Los Angeles area.</p> <p>Trash monitoring has been supported not just by apps, but by different methodologies and databases. The Trash Monitoring Workgroup of the California Water Quality Monitoring Council has been working on monitoring methods and trash data science to help address data comparability so that trash data from the various sources can be used. This year, the State Water Board's Clean Water Team Citizen Monitoring Coordinator has been hosting a webinar series on the work being done to monitor and manage California's trash water quality issues.</p> <p>As progress is made, there is still the issue of data being accessible for water quality assessment purposes. For the Clean Water Act 303(d) and 305(b) lists, accessible data is generally interpreted as data housed in CEDEN, but trash data can be submitted as photographic data. In addition, the Los Angeles Water Board could use available</p>

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		<p>we have picked up just under 3 million pieces of plastic. While we are proud of these efforts, and of our volunteers and partners, the fact that we continue to find this amount of trash in our waterways year after year is incredibly concerning. Furthermore, many of LA's residents spend a lot of time doing recreational activities on and near various water bodies. We should creating a place where people can safely document and report trash through pictures and videos, as a way to monitor trash levels instead of relying on cities to tell us. We can crowdsource this data through an app made or sponsored by the State Water Board, or take advantage of existing debris databases like the CleanSwell Trash App.</p> <p>Even if cities are "in compliance" we know trash is still an issue. We can help push for a change in trash TMDL monitoring and reporting if the public shows engagement and concern with trash pollution of our waterways, and the Regional Board can provide a platform to harness that community science by crowdsourcing the data for regulatory purposes.</p>	<p>data that are not in CEDEN for purposes other than listing decisions.</p> <p>While the Los Angeles Water Board does not have the resources to support the adoption or creation of a citizen science program/platform for trash data acquisition, the commenters could work with the Trash Monitoring Workgroup, the Clean Water Team, and Los Angeles Water Board staff to harvest trash data from other pre-existing apps for listing decisions and other purposes.</p> <p>Please visit the SWAMP - Clean Water Team Citizen Monitoring Program for details about the Water Boards' efforts to engage citizens in local and regional monitoring at https://www.waterboards.ca.gov/water_issue_s/programs/swamp/cwt_volunteer.html.</p>
B.2.1	Aleshire & Wynder, LLP on behalf of the cities of Bell, Carson,	<p>Trash Discharge Prohibitions Implementation of the requirements to prohibit trash discharges, in accordance with the Statewide Trash Amendments, should constitute compliance with trash receiving</p>	<p>No change. The Los Angeles Water Board disagrees that compliance with the discharge prohibition for trash per se constitutes compliance with receiving water limitations for trash. Notably, when the State Water</p>

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	Flintridge, Glendora, Irwindale, La Cañada, and Rancho Palos Verdes	<p>water limitations. In the response to comments on the Statewide Trash Amendments on page F-65, the State Water Board stated that the State Water Board expects the Trash Amendments will constitute adequate pollution control measures to meet water quality standards. Given that the expectation of the State Water Board is that implementing the Trash Amendments will be adequate to meet water quality standards, the Tentative Order should reflect that expectation.</p>	<p>Board was adopting the Trash Amendments it specifically declined to add language specifying that MS4 permittees fully implementing the discharge prohibition for trash were in compliance with receiving water limitations (see e.g., Comment Responses 4.1, 10.9, 13.3, and 14.2 in the 2015 Response to Comments for the Trash Amendments). To the extent the commenter relies on language on page F-65 of the State Water Board’s Response to Comments to make its point, the cited language is taken out of context. The full sentence reads, “[t]he State Water Board expects the Trash Amendments will constitute adequate pollution control measures to meet water quality standards <i>and serve as an alternative to a TMDL for water bodies listed as impaired for trash.</i>” In this response, the State Water Board is discussing how waterbodies impaired for trash will be listed on the state’s 303(d) List and not expressing an opinion on the relationship between the trash discharge prohibition and receiving water limitations.</p> <p>Nevertheless, when the Trash Amendments were adopted, the State Water Board acknowledged that it may be appropriate for a regional board to deem MS4 permittees that fully implement the trash prohibition in compliance with trash-related receiving water</p>

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			<p>limitations, but noted that any such determination must be limited to the five priority land use areas addressed in the Trash Amendments (Response to Comments for the Trash Amendments (2015), comment response 10.9). Given that trash pollution in the Los Angeles Region remains strongly associated with stormwater, the Los Angeles Water Board declines to exercise its discretion to deem MS4 permittees in compliance with the trash prohibition in priority land uses areas at this time. However, as stated in Part X.C.2.b of the Tentative Order this information will be taken into consideration when evaluating compliance with receiving water limitations related to trash.</p>
B.2.2	VCSQMP	<p>Part III.C.2.a. Page 23. Part III.C.2.a states that "The Permittee shall install and maintain either;", but under Track 2, nonstructural controls are allowed that may not need to be "installed". Please change installed to implement to clarify that nonstructural controls can be utilized.</p> <p>Modify III.C.2.a as follows: "The Permittee shall install <u>implement</u> and maintain either..."</p>	<p>Change made. The Los Angeles Water Board does not agree that the verb "implement" needs to replace the verb "install". The Trash Amendments on which this language was based use the phrase "install, operate, and maintain" for both Track 1 and Track 2 compliance options. Consistent with the Trash Amendments, Track 2 allows "any combination of <i>full capture systems</i>, multi-benefit projects, other treatment controls, and/or <i>institutional controls</i>". Since Track 2 clearly states that institutional controls may be employed the language is sufficiently clear. However, to make the language consistent with the</p>

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			Statewide Trash Amendments, the verb “operate” was added.
B.2.3	VCSQMP	<p>Part III.C.2.a.i. Page 23. Footnote 26 includes a link that is not functional and it is unclear if it is referencing both the certified full capture system list of trash treatment control devices (July 2020) AND the certified multi-benefit trash treatment systems (July 2019)</p> <p>Modify footnote 26 to include links to both lists of certified treatment devices and systems.</p> <ul style="list-style-type: none"> • https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/trash_implementation/certified_fcsdevicelist_updatedjuly_2020.pdf • https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/trash_implementation/mbts_coversheet_19jun19.pdf 	Change made. The link in footnote 26 was replaced with a link to the State Water Board’s Trash Implementation page because the list of certified full capture systems and multi-benefit treatment systems is regularly updated, and a direct link to the pdfs may not reflect the most recent lists.
B.2.4	Stormwater Equipment Manufacturers Association	<p>Section: III.C.2.b.i – Trash Control in Areas Not Covered by a Trash TMDL</p> <p>We suggest clarifying that areas are not in compliance unless adequate operation and maintenance of full capture systems is provided.</p>	No change. Permittees are required to install and properly operate and maintain their selected trash controls (see Tentative Permit, Part III.C.2.a and Attachment D, Part I.D) and, additionally, are required to report on the frequency of the full capture systems’ maintenance in Attachment I and include it in their Annual Report.
B.2.5	VCSQMP	Part III.C.2.b.iv. Page 24. This provision appears to create a new requirement for Track 2 compliance by requiring the	Change made. This provision was not intended to create new or heightened requirements for Track 2 compliance. Per the

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		<p>development of "trash loads". Instead this provision should be related to full capture system equivalency.</p> <p>Modify III.C.b.iv as follows: Trash levels (baseline load) <u>Full capture system equivalency</u></p>	<p>Statewide Trash Amendments, and the Los Angeles Water Board's 13383 Order (dated August 18, 2017) that implemented these Amendments, Track 2 full capture system equivalency "is a Trash* load reduction target that the permittee quantifies by using an [approved] approach." (Ocean Plan, p. 63.) The Trash Amendments provided two examples of such approaches: "trash capture rate approach" and a "reference approach." (<i>Id.</i>) The August 13383 Order provided a third assessment approach, "visual trash assessment". All of these approaches (or any alternative that would be approved by the Los Angeles Water Board) require some quantification of the baseline trash load so that the Los Angeles Water Board can track a MS4 Permittee's progress in reducing trash in stormwater discharges over time. As such, MS4 permittees that elect the Track 2 compliance method must conduct and submit trash assessments to identify existing levels of trash generation. MS4 permittees selecting Track 2, at a minimum, are required to conduct a trash assessment of the Priority Land Use areas, even if they subsequently select other locations or land uses within their jurisdiction or watershed to implement any combination of controls that meet Full Capture System Equivalency. (Note, if proposing to select locations or land uses other than Priority Land Uses, the permittee</p>

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			<p>must also assess trash levels at those locations or land uses and provide a justification demonstrating that the selected locations or land uses generate trash at rates that are equivalent to or greater than the Priority Land Uses.)</p> <p>The language in Part III.B.2.b.iv (formerly III.C.b.2.iv) of the Revised Tentative Order has been updated to clarify that the purpose of this requirement is to ensure that Track 2 Implementation Plans include an initial assessment of baseline trash load.</p>
B.2.6	City of La Puente	<p>Page 24. Part III.C.2.b.iv. "Trash levels (baseline load), using the methodology per the Visual Trash Assessment Approach or other equivalent trash assessment methodology, for all PLUs as well as any designated land uses, and equivalent alternate land uses;"</p> <p>The Visual Trash Assessment Approach method is described in the Trash Policy and a reference to it should be provided.</p>	<p>Change made. A reference to the protocol for Visual Trash Assessment, "Recommended Trash Assessment Minimum Level of Effort for Establishing Baseline Trash Generation Levels" document that was included as an enclosure to the Los Angeles Water Board's August 18, 2017, Water Code Section 13383 Order, has been added as footnote 30 in Part III.B.2.b.iii of the Revised Tentative Order.</p>
B.2.7	Heal the Bay, the Natural Resources Defense Council, and Los Angeles Waterkeeper	<p>The Tentative Permit also contains some problems, notably the use of the visual trash assessment approach. This method can be used as an alternative form of permittees' Track 2 compliance priority land uses, designated land uses, and alternate land uses areas. Simply using photos to prove compliance is not enough to hold permittees</p>	<p>Change made. Visual monitoring is consistent with the Clean Water Act. The Clean Water Act requires all permits to include "[r]equired monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity, including, when appropriate, continuous monitoring." (40</p>

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		<p>accountable. Trash is generated throughout the year, so one beach clean-up or one clean area does not ensure that permittees are being held accountable for all the trash that is polluting our water resources.</p> <p>We support the State Water Board's partnership with the Ocean Protection Council and Ocean Science Trust to develop a statewide protocol for instream monitoring. We recommend that the statewide in-stream monitoring protocol that demonstrates compliance with the water quality objectives should be based on the City of San Jose's Trash Monitoring Plan, as outlined in a memo by the California Coastkeeper Alliance (Attachment 2) because, "This monitoring program yields more actionable data than the 2007 SWAMP protocols." Some important characteristics of this plan include relatively long (300 ft.) assessment locations to incorporate the spatial variability of trash distribution, quantitative and qualitative assessments to measure general trash levels and the effectiveness of management actions (bag bans, street sweepings, etc.), criteria for the identification of transport pathways that is clear-cut and replicable, collecting total trash volume and weight to ensure a clear understanding of the extent of trash in receiving waters, and debris volume</p>	<p>C.F.R. § 122.48(b.) The permitting agency "has wide discretion and authority to determine monitoring requirements in NPDES permits." (Coastal Env't Rts. Found. v. California Reg'l Water Quality Control Bd. 596, 601 (2017) 12 Cal. App. 5th 178, 182, quoting Natural Resources Defense Council (1988) 863 F.2d 1420, 1434.)</p> <p>The Statewide Trash Amendments require MS4 permittees that choose the Track 2 compliance track to "develop and implement monitoring plans that demonstrate the effectiveness of the full capture systems*, multi-benefit projects*, other treatment controls*, and/or institutional controls* and compliance with full capture system equivalency*." (Ocean Plan, Chapter III.L.5.b.) While the Statewide Trash Amendments do not specify the type of monitoring that must be used to assess compliance with the discharge prohibition, the foundation of any monitoring program for trash is the initial assessment or "baseline" that can serve as the benchmark to track progress towards meeting trash load reduction targets. The Statewide Trash Amendments provide two examples of trash assessment approaches for permittees to demonstrate Full Capture System Equivalency when a permittee selects the Track 2 compliance method (Trash Capture</p>

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		<p>categorized by type to allow for regional comparisons and assessment of specific management actions.</p> <p>While the visual assessment method under Track 2 compliance does allow permittees to create their own locally tailored trash reduction program, the freedom of this track leaves room for permittees to evade responsibilities. We believe visual assessment on its own is not sufficient or enforceable enough to determine compliance with the relevant permit, as required by Section 308(a) of the CWA. However, if visual assessment does show permittee non-compliance with the Trash Amendments' provisions, they must assume strict liability for that assessment without the State or Regional Water Board proving causation and/or the actual discharge of trash into a waterway.</p> <p>These recommendations can help alleviate current inconsistencies in monitoring and reporting of trash in our water bodies. This is important because we know that 80% of marine debris comes from land, carried into our ocean and waterways by rain running off our streets and sidewalks. Furthermore, California communities are spending over \$400 million annually to clean up trash and marine debris. Trash monitoring is a</p>	<p>Rate Approach and the Reference Approach) but also recognize that alternative methodologies may be appropriate with approval by the Regional Board. (Ocean Plan, Appendix I, p. 63.) The Los Angeles Water Board previously authorized implementation of the Visual Trash Assessment Approach in the 13383 Orders issued to implement the Trash Amendments and continue to find that this approach is an accepted and appropriate assessment approach. Visual trash assessments provide valuable information about the amount of trash that enters the MS4 because of the variable nature of trash (e.g., material, size, etc.).</p> <p>Trash monitoring presents a number of technical and logistical challenges. Trash levels in the receiving water are influenced by myriad factors (including but not limited to: weather patterns, topography, urban development) and comes from a number of sources other than the MS4 (e.g., illegal dumping, aerial deposition, littering, etc.). Further, the substantial spatial and temporal variability of trash in the environment can make it difficult to detect changes in the amount of trash within and between years. (See generally discussion in Monitoring Considerations for the Trash Amendments (July 2017) available at</p>

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		<p>complicated task, but it is necessary to ensure the health of our water resources, which is also connected to our own health and that of our ecosystems. With these clear and enforceable provisions, permittees will also find it relatively easier to monitor and reduce trash in our waters.</p>	<p>https://www.waterboards.ca.gov/water_issue_s/programs/stormwater/docs/trash_implementation/monit_considerations_trash_amend_July2017v2.pdf.) Whatever methodology is employed by MS4 permittees to monitor for trash will have tradeoffs. However, the goal of the monitoring and reporting program for Track 2 compliance is to detect whether the trash reduction strategies implemented under Track 2 are achieving the desired results—i.e., achieving full capture system equivalency.</p> <p>As part of the approval process of the Implementation Plans, the Los Angeles Water Board will assess Permittees' proposed trash assessment methodology and determine whether the proposed assessment is sufficient to evaluate compliance with the Statewide Trash Amendments.</p> <p>To the extent the commenter is concerned with general inconsistencies in the Trash monitoring requirements in the Tentative Permit, the Los Angeles Water Board agrees that the Tentative Permit did not clearly articulate the requirements for ongoing assessment of trash levels. Therefore, the requirements in Part III.B.2.b of the Revised Tentative Order and question 7.2k in Attachment H have been updated to explicitly</p>

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			<p>address ongoing monitoring obligations for the MS4 Permittees that select the Track 2 compliance option. Note, no changes were made to the compliance determination section of the Tentative Permit in response to this comment. The Los Angeles Water Board disagrees that it is appropriate or legal to hold MS4 permittees strictly liable for all trash in the receiving water, irrespective of source, merely because a Permittee elects to use visual monitoring to assess the efficacy of its trash reduction strategies.</p>
B.2.8	VCSQMP	<p>Part III.C.2.d.i. Page 24. This provision sets an interim compliance deadline that is not included within the Statewide Trash Amendments by specifying an interim deadline associated with area addressed. The Statewide Trash Amendments only require that an interim milestone be included that shows progress towards full implementation. By setting a specific amount of area addressed by a certain date, this provision constrains the flexibility that is necessary to plan for, permit, and construct FCS and/or develop and implement programs in order to meet the FCSE. Additionally, by focusing on area addressed, the interim milestone does not align with the typical method of tracking installations based on number of full capture devices installed rather than area captured. An interim milestone based on area captured could</p>	<p>No change. The interim milestone is consistent with the Statewide Trash Amendments. The provisions in the Statewide Trash Amendments applicable to Track 1 and Track 2 both state that “[t]he [implementing] permit <i>shall</i> also require [Phase I MS4] permittees to demonstrate achievement of interim milestones such as average load reductions of ten percent (10%) per year or other progress to full implementation.” (See e.g., Ocean Plan, Chapter III.L.4.a.(2)&(3) (emphasis added).) The Trash Amendments give the permitting authority discretion to require other approaches to measure progress for the interim milestone. The Los Angeles Water Board determined that an annual 10% load reduction was not practical because there will be no information on baseline trash loads for MS4 Permittees that selected the Track 1</p>

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		<p>penalize Permittees that focused first on installation in high trash generating areas if those areas were smaller even if they have installed a higher percentage of full capture devices.</p> <p>Modify this section so that the interim compliance deadline is either a range that demonstrates progress towards FCSE (e.g., 40-60% completion) and modify to be based on number of devices installed, rather than area addressed for Track 1 interim milestones.</p>	<p>compliance option. The majority of MS4 permittees, including all Ventura County Permittees, have selected Track 1 as their compliance approach. Therefore, the Los Angeles Water Board based its interim milestones on land use areas, which is well-suited to measuring progress for the Track 1 compliance approach. This provision gives Permittees flexibility by specifying one 50% interim compliance date. This means Permittees have five years to achieve the interim milestone, whether by achieving an average of 10% per year, or planning for a larger compliance level as they approach the interim compliance date, depending on Permittees' budget and planning. In addition, this milestone still gives Permittees the ability to prioritize the highest trash generating areas first. For areas that generate significant amounts of trash but are not considered "Priority Land Use" or "PLU" areas, the Tentative Order allows MS4 permittees to substitute one or more PLUs with "equivalent alternate land uses" that generate rates of trash equivalent to or greater than the PLU(s) being substituted (Tentative Order, Part III.C.2.a fn 24). As such, MS4 Permittees still have the flexibility to focus compliance efforts on the highest trash generating areas.</p>

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			<p>Moreover, basing the interim milestone on number of full capture systems installed would be inadequate, since this milestone would only measure progress for Track 1 compliance and would not adequately measure progress for Track 2 compliance, since the Track 2 compliance method may include the implementation of institutional controls in addition to structural controls.</p>
B.2.9	Santa Ana Region MS4 Permittees	<p>More Flexibility for Interim Compliance Secondly, the Santa Ana Region MS4 Permittees recommend that the interim limitations for compliance through Track 1 in the Tentative Order provide more flexibility to account for the range of implementation schedules that may be utilized by permittees that will still meet the requirements of the Amendments to have all implementation completed by 2030. While we recognize that interim milestones may need to be included in the Tentative Order, the Statewide Trash Amendments provide flexibility for the Regional Water Boards to establish appropriate interim milestones for complying with the Amendments in areas with priority land uses (PLUs). On pages D-6 and E-6, the Amendments state:</p> <p>“The permit shall also require these permittees to demonstrate achievement of interim milestones such as an average of ten percent (10%) of the full capture systems*”</p>	<p>No change. See response to comment B.2.8.</p>

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		<p>installed every year or other progress to full implementation.” (Emphasis added)</p> <p>The Tentative Order includes an interim milestone in III.C.2.d.i. “Interim Compliance Deadline: Within 5 years from the effective date of this Order, 50 percent of all PLUs and equivalent alternate land uses must meet Full Capture or Full Capture System Equivalency.” The Santa Ana Region MS4 Permittees note that installation of full capture devices is usually conducted and measured by number of catch basins with installed devices, not the land area addressed. Additionally, installation of full capture devices is often based on available funding with the ultimate goal of attaining the requirements of the Statewide Trash Provisions within 10 years, as required by the amendments. Agencies have adopted different approaches to complying with the amendments, with some implementing incrementally over time and others planning for large batches of installations at a future date based on longer term budget planning. Additionally, COVID-19 has resulted in some modifications to trash implementation scheduling that might impact the interim milestones that can be achieved.</p> <p>The Santa Ana Region MS4 Permittees recognize that additional progress may need</p>	

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		<p>to be made, and in that regard the Tentative Order may need to include interim milestones. However, the Santa Ana Region MS4 Permittees recommend that some flexibility be provided to allow for variations in progress timelines amongst Permittees.</p> <p>Modify III.C.2.d.i to have interim milestones that are more flexible to support a range of implementation approaches that will still attain the final deadlines in the Statewide Trash Amendments</p>	
B.2.10	Aleshire & Wynder, LLP on behalf of the cities of Bell, Carson, Flintridge, Glendora, Irwindale, La Cañada, and Rancho Palos Verdes	<p>More Flexibility The Cities request the interim limitations for compliance through Track 1 in Tentative Order provide more flexibility. Further, the Cities request flexibility to allow for variations in progress timelines amongst Permittees.</p>	No Change. See response to comment B.2.8.
B.2.11	City of La Puente	Page 24. Part III.C.2.d.ii. "By no later than December 2, 2030, except in designated land uses that have been issued a time schedule by the Los Angeles Water Board. In no case may the final compliance date in a time schedule for a designated land use be longer than ten years from the determination by the Los Angeles Water Board to	No change. Interim and final compliance schedules are set per the Statewide Trash Amendments. For designated land use areas, the Statewide Trash Amendments establish the following time schedule to be incorporated into the implementing permit: "[t]he implementing permit shall state that for MS4 permittees designated after the effective date of the implementing permit, full

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		<p>designate a land use or location as a designated land use."</p> <p>Interim and final compliance schedules should be consistent. Recommend having the final compliance schedule begin at the Permit effective date.</p>	<p>compliance shall occur within ten (10) years of the effective date of the designation. The permit shall also require such designations to demonstrate achievement of interim milestones such as average load reductions of ten percent (10%) per year or other progress to full implementation".</p> <p>It is infeasible to begin the compliance dates for designated land use areas from the effective date of the Order because designated land use areas may be identified at any time. (See e.g., Ocean Plan, Chapter III.L.2.d, authorizing the permitting authority to require MS4 permittees to comply with the Track 1 or Track 2 in specific land uses and location that generate substantial amounts of trash.) If the compliance date for designated land use areas was tied to the effective date of the Order, then land uses identified in future permit terms may have very short or no compliance schedules. This result would be inconsistent with the plain language and intent of the Statewide Trash Amendments.</p> <p>To the extent the comment is also suggesting that the final compliance schedule begin at the Permit effective date, that would violate the Statewide Trash Amendments requirement to have a final compliance date of no later than 15 years from the effective date of the Trash</p>

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			Amendments, which is December 2, 2030. Therefore, the final compliance date is December 2, 2030, and for designated land uses, the final compliance date is no longer than ten years from the determination by the Los Angeles Water Board to designate a land use or location as a designated land use.
B.2.12	SGVCOG 2 nd Letter and ULAR Group	Part III.C.2.d.ii; Page 24. Consider not including limit of time schedules throughout. Any proposed timeframe can be denied by the Regional Board but there may be some exceptions that warrant an extended period.	No change. The Statewide Trash Amendments require the Los Angeles Water Board to include a time schedule with interim milestones. While there is flexibility in setting the milestones, the Los Angeles Water Board has no discretion to omit a time schedule entirely. The rationale for the time schedule in the Tentative Order is discussed in response to comment B.2.8.
B.2.13	Heal the Bay, the Natural Resources Defense Council, and Los Angeles Waterkeeper	<i>The final compliance deadline of December 2, 2030 for achieving the trash water quality objective must be met.</i> The State Trash Amendments provide a ten-year compliance window following the date of the first implementing permit (e.g., an MS4 Permit issued by a Regional Water Board) with a final backstop that requires full compliance be achieved no later than fifteen years following the effective date of the Trash Amendments. [footnote] 7 We must ensure that the compliance deadline of the Trash Amendments – ten years after permit incorporation, but no later than 2030 – is upheld. All Regional Water Boards have	No change. See response to comment B.2.11. To the extent the commenter suggests that all Regional Water Boards have had adequate time and notice to designate land uses and high trash generating areas, the Statewide Trash Amendments do not impose any deadlines by which the Regional Board must exercise this authority. Additionally, note that the 13383 Orders issued to Small MS4 permittees are irrelevant to the Tentative Permit, since these Small MS4 permittees are covered by a separate general NPDES permit issued by the State Water Board.

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		<p>had adequate time and notice since the adoption of the Trash Amendments in 2015 to designate land use and high trash generating areas. The State Water Resources Control Board Executive Director further sent separate 13383 Orders to traditional and non-traditional Small MS4 permittees on June 1, 2017, notifying these permittees of the requirements of the Trash Amendments. Therefore, no time schedule orders should be granted for areas outside of the Los Angeles Trash TMDL to ensure compliance with the Trash Amendments. We recommend the following language changes to Section III.C.2.d.ii. to uphold the final compliance deadline of the Trash Amendments:</p> <p>“Final Compliance Deadline: By no later than December 2, 2030, except in designated land uses that have been issued a time schedule by the Los Angeles Water Board. In no case may the final compliance date in a time schedule for a designated land use be longer than ten years from the determination by the Los Angeles Water Board to designate a land use or location as a designated land use.”</p> <p>[footnote 7]: The Trash Amendments became effective on December 2, 2015. See e.g.,</p>	

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		https://www.waterboards.ca.gov/water_issues/programs/stormwater/trash_implementation.html .	
B.3.1	SGVCOG 2 nd Letter and ULAR Group	Part IV.B.3; Page 28. Refer to area of concern regarding the zero trash effluent limitation for the Trash TMDLs.	No change. The Trash TMDLs address the impaired waterbody(ies) as a whole. To the extent that more information is needed on the specific areas of concern for each Trash TMDL for purposes of implementation, these are outlined in the relevant attachment to the Order for the TMDL. It would be duplicative and confusing to list this information in this section of the Tentative Order.
B.3.2	Oldcastle Infrastructure	Section IV.B.3.b.i.a – Certified Full Capture Systems <i>“Full capture systems are systems that meet the operating and performance requirements described in Attachment A of this Order. The Los Angeles Water Board recognizes the full capture systems certified by the State Water Board Executive Director as well as the <u>systems previously certified by the Los Angeles Water Board Executive Officer: nine Los Angeles Water Board Executive Officer-certified full capture systems, including Vortex Separation Systems (VSS), specific types or designs of trash nets; two gross solids removal devices (GSRDs); catch basin brush inserts and mesh screens; vertical and horizontal trash capture screen inserts; a connector pipe screen device; and a nutrient separating baffle box.</u>”</i>	Change made. The language in section IV.B.3.b.i.a of the Tentative Order is consistent with the intent and plain language of the Statewide Trash Amendments. Per the definition of “full capture system” in the Statewide Trash Amendments, a full capture system that has been certified by the Los Angeles Water Board prior to the effective date of the Trash Amendments will satisfy the certification requirements, unless and until the State Water Board determines otherwise. The purpose of this language was to grandfather these devices such that previously approved devices did not need to be reapproved by the State Water Board, not to preclude these devices from being used going forward. As such, the State Water Board’s list of certified full capture systems specifically includes the nine full capture systems that were previously certified by the

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		<p>Oldcastle suggests removing or revising language (see underlined above) recognizing systems previously certified by the Los Angeles Water Board Executive Officer. The current language expresses an acceptance of these systems; however, Attachment A definition only allows these systems “prior to the effective date of the Order”. Attachment A successfully defines new requirements while allowing previously implemented systems to remain (eliminating the need for retrofit on previous trash capture projects). Attachment A is well written and should be used as the basis for this section because it clearly defines certification by the State Water Board as a requirement to use which will include Vector Control approval and will be continually updated and maintained by the State of California.</p>	<p>Los Angeles Water Board Executive Officer. (Certified Full Capture System List of Trash Treatment Control Devices, updated February 2021, available at https://www.waterboards.ca.gov/water_issue_s/programs/stormwater/docs/trash_implementation/certified_fcsdevicelist_16Feb2021.pdf).</p> <p>By contrast, the State Water Board’s list of delisted systems, specifically indicates that, upon delisting, these devices are no longer certified or eligible for installation; however, existing devices may still be allowed “to continue operation as long as they are maintained to meet the Full Capture System definition. (Full Capture System Trash Treatment Control Devices Delisted updated September 2020 available at https://www.waterboards.ca.gov/water_issue_s/programs/stormwater/docs/trash_implementation/a4_delisted_fcsdevices_updatedsep2020.pdf.)</p> <p>To clarify the scope of the grandfathering provision in the Statewide Trash Amendments, Attachment A to the Tentative Order was updated as follows: “Full capture systems certified by the Los Angeles Water Board prior to the effective date of the Order Trash Amendments shall satisfy the requirements pertaining to trash, unless the Executive Director, or designee, of the State Water Board determines otherwise.”</p>

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B.3.3	Stormwater Equipment Manufacturers Association	<p>Section: IV.B.3.b.ii.a.2 – Partial Capture Devices</p> <p>We suggest clarifying that areas are not in compliance and cannot be credited with partial trash removal unless adequate operation and maintenance records are provided.</p>	No change. See response to comment B.2.4.
B.3.4	Contech Engineered Solutions, LLC	<p>Section: IV.B.3.b.ii.a.2</p> <p>Please clarify that in order to obtain trash reduction credit for areas draining to partial capture systems, adequate operation and maintenance records of those partial capture systems must be provided.</p>	No change. See response to comment B.2.4.
B.3.5	Contech Engineered Solutions, LLC	<p>IV.B.3.b.iv - Minimum Frequency of Assessment and Collection Compliance Approach</p> <p>Remove MFAC as a compliance option. Assessment and collection activities should be required to demonstrate efficacy of the full and partial trash capture measures and institutional controls implemented to remove trash prior to discharge to receiving waters.</p> <p>This section allows permittees to count trash recovered from within their receiving waters toward trash load reductions required by applicable TMDLs. To be in compliance with the trash TMDL, trash should not be discharged to the receiving water at all. Trash storage is not a designated use of receiving waters. Trash that is not removed prior to discharge from the MS4 may be</p>	<p>No change. NPDES regulations require WQBELs to be consistent with the assumptions and requirements of any available wasteload allocation in a TMDL. (40 C.F.R. 122.44(d)(1)(vii)(B).) The MFAC provisions meet this requirement since they are only allowed and available for MS4 Permittees that are within jurisdictions for which the wasteload allocation in an applicable trash TMDL allows implementation of MFAC as an alternative approach to comply with the final wasteload allocations, in conjunction with BMPs. The Lake Elizabeth Trash TMDL, Legg Lake Trash TMDL, Machado Lake Trash TMDL, Ventura River Estuary Trash TMDL, and Revolon Slough and Beardsley Wash Trash TMDL allow Permittees to comply with</p>

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		buried, suspended in the water column, transported to the ocean or other receiving waters and/or degraded into particles finer than 5mm that will have environmental impacts and may not be measured by assessment activities or recovered by collection activities described in this section.	WQBELs by implementing an MFAC program in conjunction with BMPs.
B.3.6	Stormwater Equipment Manufacturers Association	<p>Section: IV.B.3.b.iv – Minimum Frequency of Assessment and Collection Compliance Approach</p> <p>We suggest clarifying that only programs with local ordinances that require full retention of the design storm without discharge, without exception, be exempt from structural BMP performance requirements of the permit. Further, we suggest that “retain” be defined in the permit as “capture of runoff from the design storm without release as overland flow, piped effluent or other discharge. Runoff may be infiltrated, harvested for use on site, or evapotranspired.”</p>	<p>No change. See response B.3.5 The MFAC provisions are consistent with the assumptions and requirements of the applicable trash TMDLs. Regarding the comment that “retain” should be defined in the permit, the Los Angeles Water Board disagrees. “Retain” is used consistent with the common understanding and definition of the word.</p>
B.3.7	Oldcastle Infrastructure	<p>Section: IV.B.3.b.iv - Minimum Frequency of Assessment and Collection Compliance Approach</p> <p>We suggest the minimum frequency of assessment and collection (MFAC) be removed from the permit as a means of compliance. The purpose of trash capture is to prevent trash from entering receiving waters. Allowing MFAC as a means of compliance permits trash to collect in those</p>	<p>No change. See response to comment B.3.5.</p>

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		waterways. potentially break down, and create serious environmental damage that could have been prevented. By eliminating this option, permittees will be required to address trash upstream, thereby protecting waterways and accomplishing true environmental benefits.	
B.4.1	Aleshire & Wynder, LLP on behalf of the cities of Bell, Carson, Flintridge, Glendora, Irwindale, La Cañada, and Rancho Palos Verdes	Receiving Water Limitation Compliance Implementation of the requirements to prohibit trash discharges, in accordance with the Statewide Trash Amendments, should constitute compliance with trash receiving water limitations. In the response to comments on the Statewide Trash Amendments on page F-65, the State Water Board stated that the State Water Board expects the Trash Amendments will constitute adequate pollution control measures to meet water quality standards.	No change. See response to comment B.2.1.
B.4.2	City of Port Hueneme, City of Simi Valley, City of Ventura, City of Thousand Oaks, County of Ventura, and VCSQMP	Provide compliance for trash receiving water limitations.	No change. See response to comment B.2.1.
B.4.3	VCSQMP	<i>Implementation of Statewide Trash Provision Requirements should Constitute Compliance with Trash Receiving Water Limitations</i>	No change. See response to comment B.2.1.

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		<p>As discussed in the Fact Sheet, the Statewide Trash Amendments established a prohibition on the discharge of trash and implementation requirements for permitted storm water discharges. The prohibition and implementation requirements have been incorporated into the Tentative Order. While the meeting the implementation requirements that have been included in the Tentative Order result in compliance with the discharge prohibition, the implementation actions are not specifically designated as providing compliance for the receiving water limitations.</p> <p>As noted in the Statewide Trash Amendments, the implementation provisions are expected to be utilized as an alternative to a TMDL and to be sufficient to avoid future trash 303(d) listings. The Fact Sheet supports this conclusion on page F-62 : "Further, the water quality standard expected to be achieved pursuant to the Trash Provisions may allow each waterbody subsequently determined to be impaired by trash to not be placed on the Clean Water Act section 303(d) list, obviating the need for the development of a TMDL for trash for each of those waterbodies. (33 United States Code section 1313(c); 40 Code of Federal Regulations section 130.7.)."</p>	

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		<p>Both the Statewide Trash Amendments and the Fact Sheet assert that the narrative trash water quality objectives are expected to be achieved through the implementation of the required permit actions. As a result, Permittees should be deemed in compliance with the receiving water limitations for trash if they are implementing the required trash permit provisions in the Tentative Order.</p> <p><u>Recommendation:</u> Modify X.C.2.b as follows: Compliance with the Discharge Prohibition in Part III.C. of this Order will be considered as evidence of whether <u>that</u> a Permittee is <u>not</u> causing or contributing to a violation of the receiving water limitation for trash.</p>	
B.4.4	Santa Ana Region MS4 Permittees	<p>Provide Receiving Water Limitation Compliance for Implementing Actions to meet the Trash Discharge Prohibitions</p> <p>As a preliminary matter, the Statewide Trash Amendments broadly commit state-wide resources to address an issue that is only identified as an impairment in a limited number of watersheds. There is substantial evidence demonstrating that local trash control has been effective for a majority of the surface waters in California, which the Tentative Order should reflect. At the time of the adoption of the Statewide Trash Amendments, the Draft Staff Report recognized that “California is the leader in</p>	No change. See response to comment B.2.1.

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		<p>implementing local ordinances with goals of reducing trash.” (see Draft Staff Report, at p. 7). Further, the existing Santa Ana Region MS4 permits already contain comprehensive municipal inspection programs, which encompass construction, industrial, commercial and residential activities. Under their respective MS4 permits, the Santa Ana Region MS4 Permittees are already required to evaluate and prioritize sources of pollutants within its geographical boundaries, including trash, and to take action for those sources causing impairments.</p> <p>Therefore, implementation of the requirements to prohibit trash discharges, in accordance with the Statewide Trash Amendments – if they are needed at all – should constitute compliance with trash receiving water limitations associated with the Statewide Trash Amendments. In the response to comments on the Statewide Trash Amendments on page F-65, the State Water Board stated:</p> <p>“The State Water Board expects the Trash Amendments will constitute adequate pollution control measures to meet water quality standards . . .”</p> <p>Given that the expectation of the State Water Board is that implementing the Trash</p>	

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		<p>Amendments will be adequate to meet water quality standards established in the Statewide Trash Amendments, the Tentative Order should reflect this expectation by providing clarity that compliance with the requirements to attain the trash discharge prohibitions also constitutes compliance with the trash receiving water limitations.</p> <p><i>Considerations for revising the Tentative Order:</i> The Santa Ana Region MS4 Permittees recommend the following changes to the trash provisions of the Tentative Order:</p> <p>Modify Part X to allow compliance with the trash discharge prohibitions to also constitute compliance with trash receiving water limitations associated with the Statewide Trash Amendments</p>	
B.4.5	Los Angeles County and LACFCD 2 nd letter and City of Malibu	Order/ Part X.C.3.a.ii.(a)/ Pg. 96. The Tentative Order states that regardless of catch basin ownership a Permittee will violate its trash interim or final WQBELs if the Permittee does not establish that all drainage areas within its jurisdiction have full capture systems. The Permittees request that “regardless of catch basin ownership” be deleted as MS4 Permittees are not responsible for catch basins that are privately owned (i.e., in private homeowners associations [HOAs]).	Change made. This Order, and MS4 permits as a whole, applies to publicly owned, municipal separate storm sewer systems. A municipal separate storm sewer system (MS4) encompasses more than just catch basins and storm drains as indicated by the federal definition of MS4, which is “a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs,

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			<p data-bbox="1251 237 1843 305">gutters, ditches, man-made channels, or storm drains)...” (40 CFR § 122.26(b)(8)).</p> <p data-bbox="1251 337 1896 1398">Permittees may comply with the Trash WQBELs by employing a variety of compliance approaches alone or in combination. This part of the Order specifically applies to Permittees electing to comply with the Trash WQBELs through installation of full capture systems. Therefore, the purpose of including “regardless of catch basin ownership” in this provision was to clarify that Permittees are ultimately responsible for controlling trash discharges from the drainage areas within their jurisdiction. Where Permittees choose to control trash discharges by retrofitting the catch basins that are located within their jurisdiction, the Permittee must coordinate with other Permittees that may own and/or operate a portion of the MS4 (such as the local flood control district) so that all drainage areas within the Permittee’s jurisdiction are addressed. Where private storm drains are present within a drainage area and a Permittee chooses to comply through installation of full capture systems, Permittees must install full capture systems “inline” downgradient of the privately owned storm drains to ensure that the entire drainage area within the Permittee’s jurisdiction is addressed.</p>

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			For clarification, the Los Angeles Water Board has deleted “regardless of catch basin ownership,” since the prior part of the requirement that states, “[t]he Permittee ... <i>has addressed all drainage areas within its jurisdiction with full capture systems</i> ” is adequately clear on its own. (Emphasis added.)
B.4.6	City of Los Angeles	Main Body, Part X.C.3.a.ii.(a), Page 96. The Tentative Order states that a Permittee violates its interim or final WQBELs for trash if the Permittee fails to demonstrate that it has addressed all drainage areas within its jurisdiction with full capture systems, regardless of catch basin ownership. LASAN requests that the phrase “ <u>regardless of catch basin ownership</u> ” be removed given that Permittees are not responsible for privately owned catch basins (i.e. in HOA).	Change made. See response to comment B.4.5.
B.4.7	VCSQMP	Part X.C.3.b.ii. Page 97. This provision is inconsistent with the language in Part XI.B.2 that states that trash WQBELs are annual averages and only a single exceedance shall be calculated per year for these WQBELs. Additionally, the provision does not account for the different types of compliance options and the possibility that a single violation may not be replicated over an entire year. For example, if a MFAC program is being utilized, one MFAC event could be missed,	Change made. Part XI.B.2 of the Tentative Order and Part X.C.3.b.ii do not conflict. Part XI.B.1 of the Tentative Order was intended to address the application of the mandatory minimum penalty provisions in section 13385(h) and (i) of the Water Code while Part XI.B.2 referred to discretionary penalties that may be imposed <i>in addition to</i> mandatory minimum penalties. However, the Los Angeles Water Board has determined that Part XI.B.1 of the Tentative Order is inaccurate and should be deleted because

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		<p>but that violation could be corrected prior to the next storm event.</p> <p>Remove this provision.</p>	<p>mandatory minimum penalties do not apply to violations of trash WQBELs. (A “serious” violation per section 13385(h) will not occur because trash is not a group I or II pollutant and a “chronic” violation per section 13385(i) will not occur because there cannot be four or more violations in any six month period.) As such, Part XI.B.1 of the Tentative Order has been deleted.</p> <p>Violations of Trash WQBELs are still subject to discretionary enforcement. Part XI.B.2 of the Tentative Order explains how the number of days of violation will be determined for a discretionary enforcement action, stating, “when a Permittee has violated the annual effluent limitation, any subsequent discharges of trash during any day of a storm event of greater than 0.25 inch during the same water year constitutes an additional day in which the violation of the effluent limitation occurs.” While the Los Angeles Water Board does not agree that this provision should be removed, it does agree that it should be made consistent with Part X.C.3.b.ii of the Order, which explains that MS4 Permittee(s) may rebut the presumption that they were in violation of a Trash WQBEL on a specific day if “it establishes that its cumulative Storm Event Trash Discharges has not exceeded the applicable effluent limitation.”</p>

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			<p>The Los Angeles Water Board has updated Part XI.B.2 (Part XI.B in the revised Tentative Order) to clarify that the presumption that there was a violation on any day of a storm event of greater than 0.25 of an inch may be rebutted with evidence that the MS4 Permittee was actually in compliance on a given day. As such, one missed MFAC event will not necessarily render the MS4 Permittee out of compliance for an entire year. To make this result more clear, the Los Angeles Water Board also deleted the reference in Part X.C.3.b.ii to “cumulative Storm Event Trash Discharges.” “Storm Event Trash Discharge” is a term of art specific to the mass-balance compliance option. However, the rebuttable presumption in Part X.C.3.b.ii was intended to apply to all alternative compliance options.</p> <p>Part XI.B.2 (Part XI.B in the revised Tentative Order) is updated as follows:</p> <p>“In addition to the mandatory minimum penalties described in subpart 1 above, w <u>When</u> a Permittee has violated the annual effluent limitation, any subsequent discharges of trash during any day of a storm event of greater than 0.25 inch during the same water year constitutes an additional day in which the violation of the effluent</p>

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			<p>limitation occurs <i>unless the Permittee has established that its discharge has not exceeded the applicable effluent limitation for trash on the relevant storm days consistent with Part X.C.3.b.ii of the Order.</i>"</p> <p>Part X.C.3.b.ii is updated as follows:</p> <p>"A Permittee that violates its interim and/or final WQBEL is presumed to have violated the applicable limitation for each day of each storm event that generated precipitation greater than 0.25 inch during the applicable water year, except those storm days on which it establishes that its cumulative Storm Event trash discharges has <u>have</u> not exceeded the applicable effluent limitation."</p>
B.5.1	SGVCOG 2 nd Letter and ULAR Group	Part XI.B.1; Page 99. Recommend where reference the zero trash effluent limitation to include a qualifying statement with the acceptable compliance pathways that result in attainment of this object.	No change. The requested change is redundant with the compliance determination discussion in Part X.C of the Order.
B.5.2	VCSQMP	Part XI.B.2. Page 100. This provision is inconsistent with the language in Part XI.B.2 that states that trash WQBELs are annual averages and only a single exceedance shall be calculated per year for these WQBELs. Additionally, the provision does not account for the different types of compliance options and the possibility that a single violation may not be replicated over an entire year. For example, if a MFAC program is being	Change made. See response to comment B.4.7.

#	Commenter(s)	Comment	Response
		<p>utilized, one MFAC event could be missed, but that violation could be corrected prior to the next storm event.</p> <p>Remove the last sentence of this provision.</p>	

Miscellaneous Modifications

1. Fact Sheet, Part IV.B.4. Revised the sentence to delete “the city” and to add “both cities”, because the City of Gardena has submitted the required information by the deadline.

DRAFT