



December 14, 2016

Christina Arias
San Diego Regional Water Quality Control Board
2735 Northside Drive, Suite 100
San Diego, CA 92108-2700

Re: Comments on Tentative Order No. R9-2016-0205

Dear Ms. Arias:

The undersigned organizations, representing many of the state’s leading employers, appreciate the opportunity to provide comments on the San Diego Regional Water Quality Control Board’s (Board) proposed issuance of Tentative Order No. R9-2016-0205 (Tentative Order), an Investigative Order directing the owners and operators of the Phase I MS4s draining into the watersheds within the San Diego Region to submit technical and monitoring reports pertaining to the control of trash in discharges from MS4s to ocean waters, inland surface waters, enclosed bays, and estuaries in the San Diego Region.

Our organizations believe that reducing trash in California's waterways is an important water quality issue, and we are committed to doing our part to keep trash out of our waterways. To that end, our organizations participated, commented, and supported the final State Water Resources Control Board’s trash policy (Resolution No. 2015-0019) that was adopted on April 7,

2015, including the policy's recognition that the use of full capture systems as identified in "Track 1" compliance option is the preferred method of dealing with trash in our waterways. We agree that full capture systems offer the most effective solution in preventing all forms of trash from entering the state's waterways. These types of infrastructure controls are essentially working 24/7 and their effectiveness in meeting the trash reduction objectives in the Tentative Order can be appropriately monitored and measured.

As stated in the Notice of Opportunity to Review and Comment regarding the proposed Tentative Order, each municipal Copermittee needs to comply with the Trash Amendments by:

- 1) submitting a written notice to the San Diego Water Board, no later than three (3) months from the date of the Order, stating whether the municipal Copermittee will implement Track 1 or Track 2 (as described in the Trash Amendments), and
- 2) if Track 2 is selected, submitting a trash control implementation plan to the San Diego Water Board within eighteen (18) months from the date of the Order.

As previously mentioned, our organizations believe that Track 1 is the most effective way of complying with the trash amendments and we agree that it is the State Water Board's expectation that the municipal Copermittee will elect to install full capture systems where such installation is not cost-prohibitive.

However, in those instances where a municipal Copermittee decides to implement Track 2, it is our understanding that the municipal Copermittee must install, operate and maintain any combination of full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls within its jurisdiction and demonstrate that such combinations achieve full capture system equivalency.

Our organizations recognize that the ability to install full capture systems throughout a municipal Copermittee's jurisdiction may be too costly and that other types of projects or controls like street sweeping, litter education, and enforcement of existing litter laws can assist a municipal Copermittee in achieving full capture system equivalency in a more cost-effective manner. We believe the implementation plans that are required as part of choosing Track 2 will show how the combination of controls will be designed to achieve full capture system equivalency and how full capture equivalency will be demonstrated.

We caution the Board that when reviewing these implementation plans to make sure institutional controls cited by a municipal Copermittee will achieve full capture system equivalency based on required monitoring and assessments. For example, our organizations have witnessed municipalities attempting to use the adoption of local product ban ordinances as a way to comply with trash requirements in municipal stormwater permits. This very issue was discussed during the State Water Board's adoption of the trash policy. In the final staff report, the Board states:

"Contrary to ordinances or laws that prohibit distribution of plastic carry-out bags, which are typically accompanied with requirements and/or incentives to utilize reusable bags to avoid a product-substitution effect (such as Senate Bill 270), other types of product bans

enacted by an ordinance, such as take-out items, may involve a substitution of the banned item. Mere substitution would not result in reduced trash generation if such product substitution would be discarded in the same manner as the banned item. Any such product ban enacted by an ordinance that would not reduce trash would not assist in achieving compliance.”¹

We agree with the conclusion reached by the State Water Board regarding product ban ordinances and the fact that product substitution does not result in a reduction in trash.

Our organizations believe that the Tentative Order is an appropriate first step in complying with the State Water Board’s trash policy. And, as implementation of the Tentative Order begins, our organizations and member companies look forward to working with the Board and municipal Copermittees to identify opportunities for collaborative efforts - provided that such efforts are balanced; economically and environmentally sustainable; and represent real reductions in overall trash loads.

Thank you in advance for your consideration of our comments. If you have any questions, please feel free to contact Becky Warren at (310) 446-4800. We look forward to working with the Board on this important issue.

Sincerely,

*American Chemistry Council
Automotive Specialty Products Alliance
California Business Roundtable
California Chamber of Commerce
California Manufacturers & Technology Association
California Restaurant Association
California Retailers Association
Consumer Specialty Products Association
Partnership for Sound Science in Environmental Policy
Plastics Industry Association
Western Plastics Association*

¹ Final Staff Report

Including the Substitute Environmental Documentation
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, Page 96, http://www.waterboards.ca.gov/water_issues/programs/trash_control/docs/01_final_sed.pdf