

State Water Resources Control Board

JUN 01 2017

Shaila Chowdhury, Chief Environmental Engineer
Division of Environmental Analysis
California Department of Transportation
P.O. Box 942873, MS-27
Sacramento, California 94273-0001

Dear Ms. Chowdhury:

WATER CODE SECTION 13383 ORDER TO SUBMIT METHOD TO COMPLY WITH STATEWIDE TRASH PROVISIONS; CALIFORNIA DEPARTMENT OF TRANSPORTATION

On April 7, 2015, the State Water Resources Control Board (State Water Board) adopted statewide Trash Provisions¹ to address pervasive impacts trash has on the beneficial uses of our surface waters. Throughout the state, trash is typically generated on land and transported to surface water, predominantly through storm water discharges. Storm water and non-storm water discharges from the California Department of Transportation (Department) transportation system and facilities are regulated through the Statewide Storm Water Permit (Permit)² pursuant to section 402(p) of the Federal Clean Water Act.

The Trash Provisions require issuance of an Order to the Department by June 2, 2017, in accordance with Water Code section 13383,³ to initiate compliance with the Trash Provisions through submittal of planning information as described below.

The Trash Provisions establish a statewide water quality objective for trash*^{4,5} and a prohibition of the discharge of trash to surface waters of the State or the deposition of trash where it may be discharged into surface waters of the State.⁶

¹ Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash (Ocean Plan) and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California (ISWEBE Plan). Documents may be downloaded from our website at http://www.waterboards.ca.gov/water_issues/programs/trash_control/documentation.shtml.

² National Pollutant Discharge Elimination System (NPDES) Statewide Storm Water Permit for Waste Discharge Requirements for State of California, Department of Transportation, Order 2012-0011-DWQ, NPDES No. CAS000003.

³ Specified in Chapter IV.A.5.b.1 of the ISWEBE Plan and Chapter III.L.4.b.1 of the Ocean Plan

⁴ Water quality objectives specified in Chapter III.A of the ISWEBE Plan and Chapter II.C.5 of the Ocean Plan

⁵ All terms marked with an asterisk "*" are defined in the *Trash Provisions Glossary* enclosure provided with this letter.

⁶ Prohibition of discharge specified in Chapter IV.A.2 of the ISWEBE Plan and Chapter III.I.6 of the Ocean Plan

The Trash Provisions require the Department to comply with the prohibition of discharge by installing, operating, and maintaining any combination of full capture systems,* multi-benefit projects,* other treatment controls,* and/or institutional controls* for all storm drains that captures trash from significant trash generating areas.* The Department is required to demonstrate that the selected combination achieves full capture system equivalency.* Furthermore, the Department and MS4 permittees are directed to coordinate their efforts to install, operate, and maintain full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls in applicable areas.⁷

The implementation requirements of the Trash Provisions are expected to be incorporated into the Permit at the time of next reissuance of the Permit. The Trash Provisions require the Department to demonstrate full compliance with the requirements within 10 years of the effective date of the reissued Permit, along with achievements of interim milestones such as average load reductions of 10 percent per year. In no case may the final compliance date be later than December 3, 2030, 15 years from the effective date of the Trash Provisions.⁸

This 13383 Order is issued to order the Department to submit an implementation plan that anticipates the above requirements by setting out (1) the specific locations of significant trash generating areas, (2) the combination of controls selected by the Department and the rationale for the selections, and (3) how the Department will demonstrate full capture system equivalency.

The implementation plan is being required through this Order in accordance with Water Code section 13383, as specified in the Trash Provisions, and as further authorized by Clean Water Act section 308(a) and 40 Code of Federal Regulations part 122.41(h).

This Order is issued to implement federal law. The water quality objective established by the Trash Provisions serves as a water quality standard federally mandated under Clean Water Act section 303(c) and the federal regulations. (33 U.S.C. § 1312, 40 C.F.R. § 131.) This water quality standard was specifically approved by U.S. EPA following adoption by the State Water Board and approval by the Office of Administrative Law. This Order requests information necessary for the Department to plan for implementation of actions to achieve the water quality standard for trash. Further, the water quality standard expected to be achieved pursuant to the Trash Provisions may allow each water body impaired by trash and already on the Clean Water Act section 303(d) list to be removed from the list, or each water body subsequently determined to be impaired by trash to not be placed on the list, obviating the need for the development of a total maximum daily load (TMDL) for trash for each of those water bodies. (33 U.S.C. § 1313(d); 40 C.F.R. § 130.7.) In those cases, the specific actions that will be proposed by the Department in response to this Order substitute for some or all of the actions that would otherwise be required consistent with any waste load allocations in a trash TMDL. (40 C.F.R. § 122.44, subd. (d)(1)(vii)(B).) Accordingly, this Order is issued to implement federal law. Consistent with the Trash Provisions, this Order nevertheless allows the Department flexibility in the specific actions it proposes to meet the federal requirements.

⁷ Provisions from Chapter IV.A.3.b of the ISWEBE Plan and Chapter III.L.2.b of the California Ocean Plan

⁸ Provisions from Chapter IV.A.5.b.2 of the ISWEBE Plan and Chapter III.L.4.b.2 of the California Ocean Plan

Pursuant to California Water Code section 13383, **IT IS HEREBY ORDERED THAT** the Department shall:

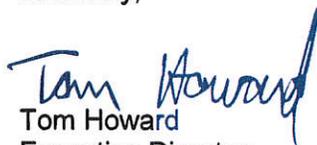
1. By **December 1, 2018**, submit an implementation plan to the State Water Board Executive Director that includes the following:
 - i. Geographic Information System- mapped information identifying specific locations of significant trash generating areas;
 - ii. The combination of full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls selected by the Department and the rationale for the selections; and
 - iii. The Department's method for demonstrating full capture system equivalency.
2. Signed and certified information with supporting documentation required by this Order must be submitted electronically to SMARTS⁹ by the same Legally Responsible Person identified for the Department's Permit deliverables. The Legally Responsible Person signing any letter, technical report, or document required by this Order must include the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Failure to comply with this Order for submittal of information, or falsifying any information provided therein, may result in enforcement action, including civil liabilities for late or inadequate reports, consistent with Water Code section 13385.

Questions regarding the requirements of this Order or any requests for assistance should be directed to Ms. Ariana Villanueva at (916) 341-5586 or ariana.villanueva@waterboards.ca.gov.

Sincerely,


Tom Howard
Executive Director

Enclosure: Trash Provisions Glossary

cc: (next page)

⁹ Storm Water Multiple Application and Report Tracking System (SMARTS) is an online database for dischargers to electronically file storm water permit documents.

cc: (via email)

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Enclosure Trash Provisions Glossary

This glossary is an excerpt of the Trash Provisions of the [Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California](#), and the [California Ocean Plan](#).

Full Capture System: A treatment control*, or series of treatment controls, including but not limited to, a multi-benefit project* or a low-impact development control* that traps all particles that are 5 mm or greater, and has a design treatment capacity that is either:

- a) of not less than the peak flow rate, Q, resulting from a one-year, one-hour, storm in the subdrainage area, or
- b) appropriately sized to, and designed to carry at least the same flows as, the corresponding storm drain.

[Rational equation is used to compute the peak flow rate: $Q = C \times I \times A$, where Q = design flow rate (cubic feet per second, cfs); C = runoff coefficient (dimensionless); I = design rainfall intensity (inches per hour, as determined per the rainfall isohyetal map specific to each region, and A = subdrainage area (acres).]

Prior to installation, full capture systems* must be certified by the Executive Director, or designee, of the State Water Board. Uncertified full capture systems will not satisfy the requirements of these Trash Provisions*. To request certification, a permittee shall submit a certification request letter that includes all relevant supporting documentation to the State Water Board's Executive Director. The Executive Director, or designee, shall issue a written determination approving or denying the certification of the proposed full capture system or conditions of approval, including a schedule to review and reconsider the certification. Full capture systems certified by the Los Angeles Regional Water Board prior to the effective date of these Trash Provisions and full capture systems listed in Appendix I of the Bay Area-wide Trash Capture Demonstration Project, Final Project Report (May 8, 2014) will satisfy the requirements of these Trash Provisions, unless the Executive Director, or designee, of the State Water Board determines otherwise.

Full Capture System Equivalency: The trash* load that would be reduced if full capture systems were installed, operated, and maintained for all storm drains that capture runoff from the relevant areas of land (priority land uses*, significant trash generating areas*, facilities or sites regulated by NPDES permits for discharges of storm water* associated with industrial activity, or specific land uses or areas that generate substantial amounts of trash, as applicable). The full capture system equivalency* is a trash load reduction target that the permittee quantifies by using an approach, and technically acceptable and defensible assumptions and methods for applying the approach, subject to the approval of permitting authority*. Examples of such approaches include, but are not limited to, the following:

- (1) Trash Capture Rate Approach. Directly measure or otherwise determine the amount of trash captured by full capture systems for representative samples of all similar types of

land uses, facilities, or areas within the relevant areas of land over time to identify specific trash capture rates. Apply each specific trash capture rate across all similar types of land uses, facilities, or areas to determine full capture system equivalency. Trash capture rates may be determined either through a pilot study or literature review. Full capture systems selected to evaluate trash capture rates may cover entire types of land uses, facilities, or areas, or a representative subset of types of land uses, facilities, or areas.

With this approach, full capture system equivalency is the sum of the products of each type of land use, facility, or area multiplied by trash capture rates for that type of land use, facility, or area.

- (2) Reference Approach. Determine the amount of trash in a reference receiving water in a reference watershed where full capture systems have been installed for all storm drains that capture runoff from all relevant areas of land. The reference watershed must be comprised of similar types and extent of sources of trash and land uses (including priority land uses and all other land uses), facilities, or areas as the permittee's watershed. With this approach, full capture system equivalency would be demonstrated when the amount of trash in the receiving water is equivalent to the amount of trash in the reference receiving water.

Institutional Controls: Non-structural best management practices (i.e., no structures are involved) that may include, but not be limited to, street sweeping, sidewalk trash* bins, collection of the trash, anti-litter educational and outreach programs, producer take-back for packaging, and ordinances.

Low-Impact Development Controls: Treatment controls that employ natural and constructed features that reduce the rate of storm water runoff, filter out pollutants, facilitate storm water storage onsite, infiltrate storm water into the ground to replenish groundwater supplies, or improve the quality of receiving groundwater and surface water. (See Water Code § 10564.)

Multi-Benefit Project: a treatment control* project designed to achieve any of the benefits set forth in section 10562, subdivision (d) of the Water Code. Examples include projects designed to: infiltrate, recharge, or store storm water for beneficial reuse; develop or enhance habitat and open space through storm water and non-storm water management; and/or reduce storm water and non-storm water runoff volume.

Municipal Separate Storm Sewer System (MS4): Same meaning set forth in 40 Code of Federal Regulations section 122.26(b)(8).

Preproduction Plastic: Same meaning set forth in section 13367(a) of the Water Code.

Priority Land Uses: Those developed sites, facilities, or land uses (i.e., not simply

zoned land uses) within the MS4 permittee's jurisdiction from which discharges of trash* are regulated by these Trash Provisions* as follows:

- (1) High-density residential: all land uses with at least ten (10) developed dwelling units/acre.
- (2) Industrial: land uses where the primary activities on the developed parcels involve product manufacture, storage, or distribution (e.g., manufacturing businesses, warehouses, equipment storage lots, junkyards, wholesale businesses, distribution centers, or building material sales yards).
- (3) Commercial: land uses where the primary activities on the developed parcels involve the sale or transfer of goods or services to consumers (e.g., business or professional buildings, shops, restaurants, theaters, vehicle repair shops, etc.)
- (4) Mixed urban: land uses where high-density residential, industrial, and/or commercial land uses predominate collectively (i.e., are intermixed).
- (5) Public transportation stations: facilities or sites where public transit agencies' vehicles load or unload passengers or goods (e.g., bus stations and stops).

Equivalent alternate land uses: An MS4 permittee with regulatory authority over priority land uses may issue a request to the applicable permitting authority* that the MS4 permittee be allowed to substitute one or more land uses identified above with alternate land uses within the MS4 permittee's jurisdiction that generates rates of trash that is equivalent to or greater than the priority land use(s) being substituted. The land use area requested to substitute for a priority land use need not be an acre-for-acre substitution but may involve one or more priority land uses, or a fraction of a priority land use, or both, provided the total trash generated in the equivalent alternative land use is equivalent to or greater than the total trash generated from the priority land use(s) for which substitution is requested. Comparative trash generation rates shall be established through the reporting of quantification measures such as street sweeping and catch basin cleanup records; mapping; visual trash presence surveys, such as the "Keep America Beautiful Visible Litter Survey"; or other information as required by the permitting authority.

Permitting Authority: The State Water Board or Regional Water Board, whichever issues the permit.

Significant Trash Generating Areas: All locations or facilities within the Department's jurisdiction where trash* accumulates in substantial amounts, such as:

- (1) Highway on- and off-ramps in high density residential, commercial, and industrial land uses (as such land uses are defined under priority land uses* herein).
- (2) Rest areas and park-and-rides.
- (3) State highways in commercial and industrial land uses (as such land uses are defined under priority land uses herein).
- (4) Mainline highway segments to be identified by the Department through pilot studies and/or surveys.

* Defined within this document.

Storm Water: Same meaning set forth in 40 Code of Federal Regulations section 122.26(b)(13) (Nov. 16, 1990).

Treatment Controls: Structural best management practices to either (a) remove pollutants and/or solids from storm water* runoff, wastewater, or effluent, or (b) capture, infiltrate or reuse storm water runoff, wastewater, or effluent treatment controls* include full capture systems* and low impact development controls*.

Trash: All improperly discarded solid material from any production, manufacturing, or processing operation including, but not limited to, products, product packaging, or containers constructed of plastic, steel, aluminum, glass, paper, or other synthetic or natural materials.

Trash Provisions: The water quality objective for trash*, as well as the prohibition of discharge and implementation requirements set forth in Implementation of Water Quality Objectives of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California Plan.