

INFORMATIONAL DOCUMENT

Public Scoping Meeting for Proposed Statewide Policy for
Trash Control in Waters of the State

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**DIVISION OF WATER QUALITY
STATE WATER RESOURCES CONTROL BOARD
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

Introduction

This informational document describes options proposed by the State Water Resources Control Board's (State Water Board's) staff to develop a Statewide Policy for Trash Control in Waters of the State ("Trash Policy"), and summarizes factors that could be considered in the analysis of potential significant environmental effects under the California Environmental Quality Act (CEQA). This informational document is provided to the public for the purposes of receiving input on the scope of the State Water Board's CEQA analysis. State Water Board staff will hold scoping meeting(s) to assist in identifying the issues relevant to stakeholders during the environmental review process (See Cal. Code Regulations., title. 14, §15083). This document is not intended to fulfill the State Water Board's formal planning requirements under the Porter-Cologne Water Quality Control Act, the Federal Clean Water Act, or the California Environmental Quality Act. A draft staff report, substitute environmental document, and draft water quality control policy will be prepared and circulated at a later date to fulfill the State Water Board's formal water quality planning obligations.

Project Description

State Water Board staff is proposing a Trash Policy, which would identify trash as a separate pollutant and establish methods to control trash pollution in waters of the state. This informational document presents issues and alternatives to elements that may be included in the proposed Trash Policy. The three elements subject to scoping consideration are: (1) Water Quality Policy, (2) Water Quality Objectives, and (3) Implementation.

Background

For the purposes of this document, trash is considered to be of anthropogenic origin, with the main source of trash being litter.¹ In this document, "trash" also includes the terms "floating debris," "floatable waste," and "settleable waste."

Plastics are one of the most abundant type of trash . Other significant categories include cigarette butts, wood, cardboard, and metal. The three primary transport mechanisms for trash are:

- Storm drains – trash deposited throughout the watershed is transported during and after rain events to water bodies via storm drains.
- Wind blowing trash into water bodies.
- Direct disposal (dumping) of trash into water bodies.

Trash is impacting the waters of the state. Trash affects the health of both humans and aquatic life. Some trash (e.g., diapers, medical and household waste, and chemicals) can be a source of bacteria, viruses, and toxins that can affect human and aquatic life. Trash in water bodies can threaten public health when water is used for recreational purposes. Large trash items

¹ Gov. Code, § 68055.1, subd. (g). "'Litter' means all improperly discarded waste material, including, but not limited to, convenience food, beverage, and other product packages or containers constructed of steel, aluminum, glass, paper, plastic, and other natural and synthetic materials, thrown or deposited on the lands and waters of the state, but not including the properly discarded waste of the primary processing of agriculture, mining, logging, sawmilling, or manufacturing."

such as containers or tires can result in standing water that supports mosquitoes and mosquito-borne diseases such as encephalitis and West Nile virus.

Trash in water bodies also threatens the aquatic ecosystem and damages habitat. Aquatic life and wildlife living in rivers, riparian areas, estuaries and the ocean can be harmed by ingesting plastic particles, which can lead to wildlife and aquatic life feeling “satiated,” when in reality they have eaten nothing of nutritional value. Trash that settles to the bottom of a river, lake, or the ocean can harm bottom-feeding aquatic life, contribute to sediment contamination, and smother river, lake, and ocean bottom habitat. Small and large floatable trash can inhibit the growth of aquatic vegetation decreasing spawning areas. Wildlife living in rivers, riparian areas, estuaries, and the ocean can become entangled in trash. Mammals such as dolphins and seals, and reptiles such as turtles, can become entrapped in trash and drown. Trash can also impede the ability of fish to move water through gills, choking off the oxygen supply.

Trash is unsightly. Trash ends up on beaches or collects in “trash hot spots,” repelling visitors and degrading lake, riverine, and coastal waters aesthetics. Except for large items such as shopping carts and tires, trash that settles to the bottom of the water body is not always obvious to the eye. Trash may eventually end up on the beaches or in the open ocean, repelling visitors away from beaches and degrading lake, riverine and coastal waters.

Plastic trash, including plastic bag trash, is a nuisance and also poses a threat to aquatic life. Plastic does not degrade; rather, it breaks down into very small pieces. Small preproduction plastic pellets as well as postproduction discards float at various depths in the ocean and affect organisms at all levels of the food chain.

Existing Regulatory Structure

The State Water Board and Regional Water Quality Control Boards (Regional Water Boards) are delegated the responsibility for implementing California’s Porter-Cologne Water Quality Control Act (Porter-Cologne Act) and the federal Clean Water Act (CWA). Sections 13140 and 13240 of the Porter-Cologne Water Quality Control Act authorizes the State Water Board to adopt statewide water quality control policies and plans. In addition, section 13240 requires each Regional Board to formulate and adopt water quality control plans, or Basin Plans, for all areas within the Region. Each Basin Plan and statewide plan contains water quality standards, which consist of beneficial uses, water quality objectives to protect those beneficial uses, a program of implementation for achieving the water quality, and an antidegradation policy. Beneficial uses of water impacted by trash include: contact recreation (e.g., swimming and wading), non-contact recreation (e.g., fishing and aesthetics), warm fresh water habitat, wildlife habitat, estuarine habitat, marine habitat, rare, threatened or endangered species, migration of aquatic organisms, spawning, reproduction and early development of fish, commercial and sport fishing, wetland habitat and cold freshwater habitat.

Currently, the Regional Water Board Basin Plans contain narrative water quality objectives that prohibit the presence of floatable, solid, suspended, and settleable materials in amounts that adversely affect beneficial uses, although exact wording is not the same among the Plans.

In order to meet water quality standards, point source dischargers must comply with technology and water-quality based effluent limitations in their National Pollutant Discharge Elimination System (NPDES) permits. In the case of NPDES permits for storm water discharges associated with industrial or construction activity, the technology-based standard is Best Conventional Pollutant Control Technology and Best Available Technology Economically Achievable

(BCT/BAT). For NPDES permits for discharges from a Municipal Separate Storm Sewer System (MS4), the discharge of pollutants must be reduced to the Maximum Extent Practicable (MEP). Nonpoint source dischargers must comply with effluent limits and provisions in their Waste Discharge Requirements (WDRs) or their conditional waivers of WDRs.

The presence of trash in California waters can impair beneficial uses and violate water quality objectives. One of staff's goals for this Trash Policy is to ensure that beneficial uses are protected. Section 303(d) of the CWA requires states to identify certain waters within their borders that are not attaining water quality standards and to establish the total maximum daily load (TMDL) for certain pollutants impairing those waters. In California, various water bodies are included on the Section 303(d) List because they are impaired for trash. To date, ten TMDLs have been developed and approved for these trash-impaired water bodies, nine of which are within the Los Angeles Regional Water Board's jurisdiction. The remaining approved TMDL is for trash deposition resulting from illegal dumping to open drains in Mexico, which lead directly across the border to California via the New River. TMDLs and associated implementation plans adopted prior to the establishment of a Trash Policy could continue unchanged and may not be subject to the new Trash Policy.

Potential Elements Subject to Scoping Consideration

This section lists elements that may be included in the proposed Trash Policy. Entities expected to be affected by the Trash Policy include point source storm water dischargers and nonpoint source dischargers such as entities having jurisdiction over parks adjacent to waters.

Element 1: Water Quality Policy Statement

This element would address the issue of establishing a statewide water quality control policy that defines the MEP and BAT for the cleanup and removal of trash from the storm drain system, establishing a definition of "trash" and source control to prevent trash and pre-production plastic pellets from entering waters of the state.

This element could include:

- 1. No action*

A "no action" option, which would leave policies and practices as they are currently. Trash-impaired water bodies would continue to be addressed by each Regional Water Board on an individual basis through the TMDL process and individual WDRs and storm water NPDES permits.

- 2. Establish a definition of Maximum Extent Practicable / Best Available Technology for the cleanup and removal of trash*

A requirement that MS4 dischargers regulated pursuant to an NPDES permit remove trash from their MS4 systems to the MEP. MEP would be determined in part by the land uses and the rate of trash generation within the MS4 permitted area. Industrial and construction storm water dischargers would be required to clean up trash to the level achievable using BAT.

3. Establish a Policy for Source Control for Trash

A policy to eliminate or reduce the sources of trash. Preventing pollution is the most effective method of controlling pollution. Dischargers with MS4 NPDES permits would be required to work with the public within their jurisdictions to eliminate potential sources of trash to storm water. Where eliminating potential sources of trash is not feasible, dischargers would be required to minimize the sources of trash. For nonpoint sources of trash, dischargers would be required to ensure a progressive reduction in trash entering or threatening to enter waters of the state or municipal storm water collection systems.

4. Establish a Definition of “Trash”

A definition of “trash” that would likely combines the definitions of “litter” in the California Government Code, and “waste”² in the California Water Code. The resulting definition of “trash” would incorporate the essential elements of both definitions to include litter, waste, and other debris of concern such as plastic, expanded styrene, cigarette butts, wood, cardboard, metal, and green waste.

5. Establish a Policy for Source Control for Industrial Sources of Preproduction Plastic Pellets

A policy to minimize the discharge of preproduction plastic pellets. Preventing pollution is the most effective method of controlling pollution. Preproduction plastic pellets can be as small as one millimeter. They are pieces of plastic that are melted or molded to create most common plastic goods such as food and beverage containers, bags, shrink wrap, toys, medical products, packaging, and consumer electronics. Preproduction plastic is discharged into waterways during transport, packaging, and processing when proper housekeeping practices are not employed. Once spilled or released into the environment, their small size prevents effective cleanup. To prevent the discharge of preproduction plastic pellets to waters of the state, industrial NPDES storm water permits would include specific provisions requiring stringent source control at facilities that manufacture, handle, or use preproduction pellets. Manufacturers, transporters, and users of preproduction plastic pellets would be required to implement source control measures to minimize the release of preproduction plastic pellets into the environment.

Element 2: Water Quality Objectives

This element would address the issue of establishing a statewide water quality objective for trash. Monitoring would be required to ensure compliance with any water quality objective.

This element could include:

1. No action

A “no action” option, which would leave policies and practices as they now exist. There are currently 33 existing narrative objectives in the 11 Water Quality Control Plans that

² Wat. Code, § 13050. “‘Waste’ includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.”

would continue to apply to the discharge of trash to waters of the state. Trash-impaired water bodies would continue to be addressed by each Regional Water Board on an individual basis through the TMDL process, individual WDRs, and/or individual NPDES permits for storm water.

2. *Create a statewide numeric water quality objective of “zero trash”*

A new statewide numeric water quality objective of “zero trash.” Specifically, the objective would require that all surface waters not contain trash including man-made litter and other debris. Effectively, this performance-based numeric objective would result in a trash discharge prohibition.

3. *Standardize the existing narrative objectives that vary among the water quality control plans*

A new statewide narrative objective stating that the waters of the state shall be free from floatable, settleable, and suspended materials. This option would be based on the narrative objectives for trash that already exist in the Basin Plans.

4. *Establish a new narrative objective specifically for trash*

A new statewide narrative objective for specifically addressing trash. The objective would cover man-made litter and other debris.

Element 3: Implementation

This element would address the issue of establishing implementation measures for the control of trash. This element identifies implementation measures that may ultimately be prioritized by land use and/or high trash generation areas.

This element could include:

1. *No action*

A “no action” option, which would leave policies and practices as they are currently. Trash-impaired water bodies would continue to be addressed by the Regional Water Boards on an individual basis through the TMDL process, individual NPDES storm water permits, or enforcement actions.

2. *Storm Water Full Capture Systems*

The use of “full capture treatment systems” (to be defined) that demonstrate compliance for the relevant drainage area, provided that the full capture systems are adequately designed, sized, installed, maintained, and maintenance records are available for inspection by the Regional Water Boards.

3. *Storm Water Partial Capture Systems*

The use of “partial capture systems” (to be defined) of structural controls by local agencies to prevent trash from entering waters of the State. These partial capture systems require periodic evaluation of their effectiveness. This option would require

periodic reporting on the quantity and types of trash removed by the partial capture system, and demonstration of the effectiveness of the system.

4. Institutional Controls

The use of institutional controls, such as increased street sweeping, increased numbers of trash receptacles in public places, and public educational activities. Institutional controls by themselves or in conjunction with structural controls could be used. This option would require demonstrations of compliance and periodic reporting on the quantity and types of trash removed by the institutional controls, and demonstration of the effectiveness of the controls.

5. Nonpoint Source Management Practices

For nonpoint source discharges, assessment, collection and management practices would include initial and annual assessments of trash generation, a determination of collection frequency necessary to meet the water quality objective, and a suite of structural and/or nonstructural Management Practices that prevent trash from entering or accumulating in waters of the state. Responsible jurisdictions would be responsible for the collection and disposal of all trash found in or adjacent to surface waters, including along shorelines, channels, or river/stream banks, and would implement an initial suite of BMPs based on current trash management practices in land areas that are found to be sources of trash to a water body.

6. Prohibition of discharge

A prohibition against discharging preproduction plastic pellets to waters of the state. Pre-production plastic pellets can be as small as 1 millimeter. These would not be caught by full capture storm drain devices. As currently defined in the Los Angeles Water Board TMDLs and the San Francisco Bay Storm water permit, full capture devices only retain debris that is 5 mm or larger. Once released into the environment, drainage system or waterway their small size prevents effective cleanup. The only effective method of preventing pre-production plastic pellets from polluting water is to prohibit their discharge to waters of the state. This prohibition of discharge could be implemented through the Industrial General Storm Water NPDES permit.

7. General NPDES Permit for preproduction plastic pellets.

The State Water Board would develop and issue a statewide general NPDES permit for the control of preproduction plastic pellets. The general permit would be specific to those industries that manufacture, transport or use preproduction plastic pellets in the manufacture of other goods.

Additional alternatives may ultimately be considered as a result of the CEQA scoping process. After receiving comments on this CEQA scoping document, the State Water Board will prepare substitute environmental documentation including a draft staff report, CEQA checklist and a draft water quality control policy. These documents will be circulated for public comment.