



City Council  
311 Vernon Street  
Roseville, California 95678



August 4, 2014

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-2000

**RE: COMMENT LETTER – PROPOSED AMENDMENTS TO STATEWIDE WATER QUALITY CONTROL PLANS TO CONTROL TRASH AND THE DRAFT STAFF REPORT, INCLUDING THE DRAFT SUBSTITUTE ENVIRONMENTAL DOCUMENTATION**

Dear Ms. Townsend and Members of the Board:

Thank you for the opportunity to submit comments on the State Water Resources Control Board's ("Board") proposed amendments to Statewide Water Quality Control Plans to control trash and the draft staff report including the Draft Substitute Environmental documentation. This letter presents the City of Roseville's continuing concerns with the draft Amendment. The City of Roseville also supports and joins in comments sent separately by the Statewide Stormwater Coalition (Attachment A) and San Diego County (Attachment B).

Overall we understand the Board's concerns with reducing trash and debris entering the States waterways, especially the bays, estuaries and coastal environments. We recognize the importance of developing effective, cost-effective measures that will result in overall trash reduction in these sensitive environments. While Roseville supports the goal of incorporating feasible measures to reduce trash impacts, this goal must be balanced with practical realities. For example, the draft Amendment requires full capture of trash within "high priority" land uses, which we contend is an unreasonable and unattainable goal that will ultimately make permittees vulnerable to increased legal challenges.

We appreciate the efforts of the State Board staff to conduct stakeholder meetings held in 2013 on the proposed draft; however, there was virtually no communication with the regulated communities between the time of the last workshop and the release of the draft amendment on June 11th of this year. Based on the information provided during the July 16<sup>th</sup> workshop, it was apparent that the environmental community was fully apprised of the content and requirements being included in the draft document. We believe that if the regulated communities participated in a similar manner during the development of the draft that the outcome would have resulted in a document that was better understood resulting in more effective outcomes.

We also, find that the draft Amendment is economically impracticable. Roseville along with many other jurisdictions throughout the state is just beginning to recover from the economic downturn and have neither staff nor resources capable of responding to the vast majority of the increased requirements. Our initial analysis of the draft is that it will cost Roseville approximately \$8 million to fully implement the proposed requirements over a ten year period. The cost estimate does not include the expenses of maintaining the equipment or systems in perpetuity.

Due to constraints on fee collection for stormwater systems these costs directly impact our City's general fund, which continues to be subjected to a list of growing demands placed on it each-and-every year. The reality of local government's limited funds must be addressed within the draft Amendment through safe-harbor provisions for permittees who are fiscally unable to comply.

We support the efforts of the Statewide Stormwater Coalition, which we are party to, and refer the Board and Staff to their letter that further addresses more general and specific comments of the particular elements of concern.

In closing, the City of Roseville requests the State Board consider our comments, understand that we desire to improve the waters of the state and that you carefully revise the language within the draft Amendment to address the issues referred to and presented herein. We believe it is in the best interest of Roseville and the State Board to continue discussions on these items so the final Amendment adopted by the State Board has clear, unambiguous language that will result in a reduction of trash throughout the State.

Please contact Chris Kraft, Engineering Manager at (916) 774-5373 if you have questions or would like to discuss any items further.

Sincerely,

A handwritten signature in cursive script that reads "Susan Rohan". The signature is written in black ink and is positioned above a horizontal line.

Susan Rohan,  
Mayor

**ATTACHMENTS:**

Attachment A  
Attachment B

cc: Senator Jim Nielsen  
Assembly Member Beth Gaines  
Jason Gonsalves, Gonsalves & Son

## STATEWIDE STORMWATER COALITION

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City of Arroyo Grande  
 City of Atascadero  
 City of Auburn  
 City of Calistoga  
 City of Carmel by the Sea  
 City of Ceres  
 City of Colfax  
 City of Davis  
 City of Del Rey Oaks  
 City of Goleta  
 City of Hughson  
 City of Kingsburg  
 City of Lodi  
 City of Manhattan Beach  
 City of Monterey  
 City of Morro Bay  
 City of Napa  
 City of Newman  
 City of Oakdale  
 City of Pacific Grove  
 City of Paso Robles  
 City of Pismo Beach  
 City of Placerville  
 City of Riverbank  
 City of Rocklin  
 City of Roseville  
 City of San Luis Obispo  
 City of Sand City  
 City of Santa Maria  
 City of Signal Hill  
 City of Tracy  
 City of Turlock  
 City of Watsonville  
 City of Woodland  
 City of Yreka  
 Town of Loomis  
 Town of Truckee  
 County of Placer  
 County of Santa Cruz  
 County of Shasta  
 County of Sonoma  
 County of Stanislaus  
 County of Yolo  
 California State  
 Association of Counties  
 League of California Cities  
 Regional Council of Rural  
 Counties  
 Shasta County Water  
 Agency

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**RE: COMMENT LETTER – PROPOSED AMENDMENTS TO STATEWIDE WATER QUALITY CONTROL PLANS TO CONTROL TRASH AND THE DRAFT STAFF REPORT, INCLUDING THE DRAFT SUBSTITUTE ENVIRONMENTAL DOCUMENTATION**

Dear Ms. Townsend and Members of the Board:

Thank you for the opportunity to comment to the State Water Resources Control Board's ("Board") proposed amendments to Statewide Water Quality Control Plans to Control Trash and the draft staff report including the draft substitute environmental documentation. This letter presents the Statewide Stormwater Coalition (SSC) concerns with the draft. The SSC is a coalition of Phase II permittees who share and collaborate on storm water issues affecting their jurisdictions. The Coalition represents the concerns of more than forty (40) cities through-out the state. The SSC also supports the comments submitted by the California Stormwater Quality Association.

Overall the Coalition supports the State's efforts to reduce trash and recognizes the importance of developing efficient, cost-effective measures that will result in trash reduction. While the SSC supports the goal of incorporating feasible measures to reduce trash impacts, this goal must be balanced with practical realities. For example, the draft Amendment requires full capture of trash, which we contend is an unreasonable and unattainable goal that will ultimately make permittees vulnerable to increased legal challenges. Litter and trash has not been identified as a pollutant of concern much less the subject of a total maximum daily load (TMDL) in many of communities in the coalition that struggle with the concept and associated costs of implementing full capture systems.

The draft Amendment is also economically impracticable as written. Many municipalities are just beginning to recover from the recent economic downturn and have neither the staff nor resources necessary to comply with these increased requirements. The reality of limited funding must be addressed within the draft Amendment for permittees who are fiscally unable to comply.

The SSC respectfully requests the State Board's consideration and response to issues brought forth by this letter. These issues are outlined below and grouped into the following categories:

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- General Comments
- Specific Comments
- Issues with Track 2 and,
- Definition of Trash

### GENERAL COMMENTS

General Comments:

- 1) The use of an asterisk throughout the document appears to be a reference to a definition contained within the Glossary but, this intension is not stated in the Amendment or its supporting documents. In addition, there are no corresponding asterisks in the Glossary.
- 2) As was discussed at the July 16<sup>th</sup> workshop, there is no clear path to demonstrate compliance with Track 2 nor does it appear that it is possible to achieve full compliance via Track 2 based on research perform under the Municipal Regional Permit. If Track 1 is the only viable option for compliance, it becomes an unfunded mandate.
- 3) The presence of other significant trash deposition mechanisms suggest that a more global and cost-effective solution to trash accumulation is the path of "true source control" as demonstrated by the Brake Pad Partnership and other similar methods such as extended manufacturer product responsibility, and redemption values. Please note that there are numerical sequencing and referencing discrepancies throughout Appendix E that are not specifically addressed below (e.g. "Draft text of... Chapter III" v. 'Draft text of ... Chapter IV')
- 4) The State should consider replacing ambiguous terms like 'substantial' with 'Comparative Trash Generation Rate' when defining alternative priority land uses.

### SPECIFIC COMMENTS:

- 1) **Reference:** Draft text of the Trash Amendments proposed to be amended Chapter III – Water Quality Objectives of the ISEEBE Plan B. Trash\*:  
Trash\* shall not accumulate in ocean waters, along shorelines or adjacent areas in amounts that adversely affect beneficial uses or cause nuisance.'

**Comment:** Define 'adjacent areas'.

**Suggested Language:**

*Trash\* shall not accumulate in ocean waters, along shorelines or within those areas of the normal high water mark of inland waters in amounts that adversely affect beneficial uses or cause nuisance*

- 2) **Reference:** Draft text of the Trash Amendments proposed to be amended Chapter IV – Water Quality Objectives of the ISWEBE Plan B. Trash\* 1 Applicability a.:  
These Trash Provisions shall be implemented through a prohibition of discharge (Chapter IV. B.2.) and through NPDES permits issued pursuant to section 402(p) of the Federal Clean Water Act (as set forth in Chapter IV.B.3 below).

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**Comment:** Include entities that have NPDES permits or WDRs but may not operate a defined MS4 system or be regulated as an industrial discharger such as special districts overseeing the collection of trash.

**Suggested Language:**

*When an MS4 is required to fulfill the requirements of the ISWEBE Plan Chapter IV the entities holding solid waste franchising authority separate from the MS4 are required to comply with the provisions of this Chapter and participate in the strategies selected by the MS4, either by actively designing and installing the selected full capture devices in a drainage system discharging to Waters of the US, or by paying to the MS4 their share of the cost of design, installation, maintenance and reporting as required by Chapter IV. Those entities shall also have responsibility for responding to enforcement issues or violations originating from their discharges.*

- 3) **Reference:** Draft text of the Trash Amendments proposed to be amended Chapter IV – Water Quality Objectives of the ISEEBE Plan B. Trash\*:2d

**Comment:** Under the Prohibition of discharge for Pre-Production Plastics (PPP), please clarify if this section assigns discrete responsibilities for this prohibition to the manufacturers and/or users of PPP's or do these requirements fall under the responsibility of the local jurisdiction (MS4)?

- 4) **Reference:** Draft text of the Trash Amendments proposed to Chapter IV – Implementation of Water Quality Objectives of the ISWEBE Plan B. Trash\*\_3.a.

MS4\* permittees with regulatory authority over priority land uses shall be required to comply...

- (1) Track 1: Install, operate and maintain full capture systems\* for all storm drains that captures runoff from one or more of the priority land uses\* in their jurisdictions: or...

**Comment:** The fact an entity has 'regulatory authority' over a land use does not entitle that entity to install, operate or maintain a device on that private property.

**Language suggestion:**

- (1) Track 1: Install, operate and maintain full capture systems *within the MS4 system* ~~for all storm drains that captures runoff from one or more of the priority land uses in their jurisdictions:~~

- 5) **Reference:** Draft text of the Trash Amendments proposed to Chapter IV – Implementation of Water Quality Objectives of the ISWEBE Plan B. Trash\*\_3 a. (2).

**Comment:** Track 2 compliance is not obtainable. Its efficacy and its comparability to Track 1 may be left up to the subjective future interpretation of equivalence by the courts. As such, Track 2 is not a viable option as written. Rather,



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objective criteria for the measurement of “performance results” of Track 2 should be explicitly delineated by the Amendment.

- 6) **Reference:** Draft text of the Trash Amendments proposed to Chapter IV – Implementation of Water Quality Objectives of the ISWEBE Plan B. Trash\* 3.d.

A permitting authority\* may determine that specific land uses or locations (e.g. parks, stadia, schools, campuses, or roads leading to landfills) generate substantial amounts of Trash\*. In the event that the permitting authority\* makes that determination, the permitting authority\* may require the MS4\* to comply with Chapter IV.C.3.a or Chapter IV.C.3.b (as the case may be) *(please note: this reference in the Draft Trash Amendment appears to be incorrect; it should be Chapter IV. B 3 a (1) and Chapter IV. B 3 a (2))* with respect to such land uses or locations.

**Comment:** A permittee may select Track 1 and identified a land use or location that may lie within the municipality’s boundaries, however those discharges may not drain through the MS4’s system to the receiving water (e.g. a nonpoint source park or facility that private drains directly into surface water). **Therefore the permittee cannot be responsible for those discharges.**

**Comment:** In addition, the term “**substantial**” is vague and open to subjective interpretation. Trash generation rate for these newly-identified sources should be comparable to land uses listed by the Amendment.

**Language suggestion:**

*A permitting authority may determine that specific land uses or locations (e.g. parks, stadia, schools, campuses, or roads leading to landfills) **have a Trash generation rate that is comparable to other priority land uses.** ~~generate substantial amounts of Trash\*~~. In the event that the permitting authority makes that determination, the permitting authority may require the MS4 to comply with Chapter IV.B 3 a (1.) or Chapter IV.B.3.a (2.) (As the case may be) with respect to such land uses or locations **if the land uses or locations drain into the MS4 system such that the permittee is able to cost effectively continue sole-implementation of its chosen Track.***

- 7) **Reference:** Draft text of the Trash Amendments proposed to Chapter IV – Implementation of Water Quality Objectives of the ISWEBE Plan B. Trash 4. Other Dischargers;

A permitting authority\* may require dischargers that are not subject to Chapter IV B 3 herein to implement Trash\* controls in areas or facilities that may generate Trash”. Such areas or facilities may include (but are not limited to) high usage campgrounds, picnic areas, beach recreation areas, parks not subject to an MS4\*permit, or marinas.

**Comment:** The State and Federal governments own properties that these proposed amendments define as priority land uses. However, with the exception of properties controlled by The California Department of Transportation

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(Department) regulated under the provision of this Policy, a permittee has limited authority to require compliance at State or Federal facilities.

### Language suggestion:

*The permitting authority may determine that specific land uses, locations or activities, (e.g. State or Federally owned properties or railroads), are priority land uses or have a comparative trash generation rate to land uses specified in the Chapter. Such areas or facilities may include (but are not limited to) high uses campgrounds, picnic areas, beach recreation areas, parks not subject to an MS4 permit or marinas. In the event that the permitting authority makes this determination, an MS4 receiving flows from the designated land use may refer that facility to the permitting authority and/ or the U.S. EPA for regulatory oversight. Upon referral, the MS4 will not be held responsible for trash that accumulates in surface waters, along shorelines or adjacent areas from these facilities.*

- 8) **Reference:** Draft text of the Trash Amendments proposed to Chapter IV – Implementation of Water Quality Objectives of the ISWEBE Plan B. Trash 5.a.(3):

For MS4\* permittees that elect to comply with Chapter IV.B.3.a.1 (Track 1), full compliance shall occur within ten (10) years of the effective date of the first implementing permit (whether such permit is re-opened, re-issued or newly adopted), along with achievements of interim milestones such as average load reductions of ten percent (10%) per year. In no case may the final compliance date be later than fifteen (15) years from the effective date of these Trash Provisions\*.

**Comment:** It is important to recognize that prior to installation of any infrastructure, MS4 permittees must perform a plethora of tasks (including but not limited to mapping of priority land uses and the systems that drains those geographic areas, modeling hydraulics and hydrology (H&H) needed to support the infrastructure changes in a manner that reduces the potential for flooding, obtaining State certification of the selected full capture devices, securing financing, adopting governing ordinances, creating bid documents and contracting). **Therefore, the MS4 may obtain an 'average of ten percent installed every year.' over the first five years, but it is unlikely that an MS4 could achieve that goal within the first two years of adoption of the Trash Amendment.**

**Comment:** The Glossary defines a Full Capture System as a system meeting certain specifications and which, **prior to installation**, has been individually approved by the Executive Director (or designee) after review of all relevant supporting documentation. Inclusion of, 'prior to installation' penalizes communities that have been proactive and installed trash capture devices that meet the Full Capture System specifications. In addition, State Board staff has suggested drop inlet type devices as (at least) one method of full capture compliance. The unincorporated area of Sacramento County has nearly 50,000 drop inlets within priority use areas. While not all 50,000 would immediately be submitted for Certification, the State should anticipate

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receiving 10's of thousands of submittals (or more) per year from across the State. **The language should be modified to allow post-installation certification. If post-installation is not allowed, there needs to be language crafted that extends the compliance dates and absolves an MS4\* from milestone compliance schedules if the State is unable to provide Certification in a timely (60-days) manner.**

### Suggested Language:

*Prior to installation, full capture systems must be certified by the Executive Director, or designee, of the State Water Board. If the Executive Director, or designee, of the State Water Board does not make a determination regarding the status of certification within 60 days of request by a permittee the full capture system will be deemed as approved by the Board.*

- 9) **Reference:** Draft text of the Trash Amendments proposed to Chapter IV – Implementation of Water Quality Objectives of the ISWEBE Plan B. Trash 6:

The permitting authority\* may give MS4\* permittees that are complying under the section Chapter IV.C. 3 a. up to a three (3) year time extension for achieving full compliance in areas where regulatory source controls\* are employed that take effect prior to or within three (3) years of the effective date of these Trash Provisions\*. Each regulatory source control\* employed by an MS4\* will be eligible for up to a one (1) year time extension.

**Comment:** As recognized during the July 16<sup>th</sup> (2014) workshop, 'source control' at the local level is limited to the banning of single-use products. This may only result in a transformation of the constituents within trash and not the desired reduction of trash. Statewide source controls that encourage waste/trash reduction (including but not limited to redemption value, legislation regarding extended manufacture product responsibility/product reformulation) could achieve that which neither Track 1 nor Track 2 can which is the removal of trash from our environment. **We encourage the State to partner with a broad stakeholder group to evaluate and implement true-source control prior to implementing the Trash Amendments. We encourage the State to consider developing/adding language that recognizes (via time extensions and/or milestone adjustments) local jurisdictions that can demonstrate more global and/or statewide true-source removal efforts.**

- 10) **Reference:** Draft text of the Trash Amendments proposed to Chapter IV – Implementation of Water Quality Objectives of the ISWEBE Plan B. Trash 7.a.:

The permitting authority\* must include monitoring and reporting requirements in its implementing permits. The following monitoring and reporting provisions are the **minimum** requirements that must be included within the implementing permits:

MS4\* permittees that elect to comply with Chapter IV.C.3.a.1. (Track 1)  
*(Please note: this is an incorrect reference in the Draft Trash Amendment.*



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*The correct reference is Chapter IV.B 3.a.1) shall provide a report to the applicable permitting authority\* demonstrating operation, maintenance, and the Geographic Information System (GIS) mapped location and drainage area served of its full capture systems\* on an annual basis.*

**Comment:** Although the State made clear during stakeholder meetings and the July 16<sup>th</sup> (2014) workshop there will be no monitoring required for those choosing Track 1, both the draft report associated with the Trash Amendments and the language used within this Section allow for inconsistent statewide application of the State's intent.

**Suggested Language:**

*Add after the existing text as defined above: 'MS4 permittees that elect to comply with Chapter IV.B.3.a.(1) (Track 1), are considered to be in full compliance when the full capture systems are installed in the MS4 system servicing the listed priority land uses and exempt from future monitoring requirements.'*

11) **Reference:** Draft text of the Trash Amendments proposed to Chapter IV – Implementation of Water Quality Objectives of the ISWEBE Plan B. Trash 7.b.:

MS4\* permittees that elect to comply with Chapter IV.C.3.a.2. (Track 2) *(Please note: this is an incorrect reference in the Draft Trash Amendment. The correct reference is Chapter IV.B 3.a.2)* shall develop and implement monitoring plans that demonstrate the mandated performance results, effectiveness of the full capture systems\*, other treatment controls\*, institutional controls\*, and/or multi-benefit projects\*, and compliance with the performance standard. Monitoring reports shall be provided to the applicable permitting authority \* on an annual basis, and shall include GIS-mapped locations and drainage area served for each of the full capture systems\*, other treatment controls\*, institutional controls\*, and/or multi-benefit projects installed or utilized by the MS4\* permittee. At a minimum, the monitoring reports shall address and answer the following questions:

**Comment:** While the State made-clear during the July 16, 2014 workshop that there will be no monitoring required for those geographic areas within a Track 2 community that are “fully-captured”, both the draft report associated with the Trash Amendments and the language used within this section allow for inconsistent statewide application of the State's intent.

**Suggested Language:**

*Add after the existing text listed above: 'Those areas that drain through full capture systems \*, are considered to be in full compliance and therefore exempt from future monitoring requirements.'*

12) **Reference:** Draft text of the Trash Amendments proposed to Chapter IV – Implementation of Water Quality Objectives of the ISWEBE Plan B. Trash 7.b.(4)/(5):

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(4) Has the amount of Trash\* in the MS4 decreased from the previous year? If so, by how much? If not, explain why.

(5) Has the amount of Trash\* in the MS4's receiving water(s) decreased from the previous year? If so, by how much? If not, explain why.

**Comment:** The permittee can only be responsible for discharges from the MS4\*. Therefore, ~~delete 7.b. (5)~~ as it is superfluous in light of 7.b. (4) - which requires the MS4\* to report changes in the amount of trash discharged from its system. In addition, Trash assessments in receiving waters will generate highly variable data that precludes yearly comparisons and an evaluation of causal deposition mechanisms will be speculative.

13) **Reference:** Draft text of the Trash Amendments proposed to Appendix A: Glossary of the ISWEBE Plan:

FULL CAPTURE SYSTEM: ...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.

**Comment:** It is unclear if each full capture system must be certified 'prior to each installation' or if so long as it receives an overall technical certification by the State that it meets the specifications of a FULL CAPTURE SYSTEM. This penalizes communities that have been proactive with regards to trash-capture and provides no discernable benefit. In addition, State Board staff has suggested drop inlet type devices as (at least) one method of full capture compliance. **Delete: 'Prior to installation' from the definition; or, add language that allows pre-certification by the Executive Director or designee of the State Water Board of full capture devices and/or features for a range of flows or allow certification (sign/stamp) by a Civil Engineer licensed in the State of California.**

14) **Reference:** Draft text of the Trash Amendments proposed to Appendix A: Glossary of the ISWEBE Plan PRIORITY LAND USES: (6) Equivalent alternate land uses...

...Equivalent alternative land uses: An MS4\* permittee with regulatory authority over priority land uses\* may issue a request to the applicable permitting authority\* that it be allowed to comply under Chapter IV.B.3.a.1. with alternate land uses within its jurisdiction that generate rates of trash that are equivalent to or greater than one or more of the high density residential, industrial, commercial, missed urban, and/or public transportation station sites, facilities or land uses defined above. Comparative Trash\* generation rates shall be established through the reporting of quantification measures

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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.\*

**Comment:** As currently constructed, the reference to ‘it’ and ‘its’ may be misinterpreted as to referring to the applicable permitting authority. Instead the language should be clarified by using the term “**MS4**” in its place. It should be made clear under the language of this section that the MS4 should be allowed to substitute alternative land uses for the listed land uses on a one-for-one basis if they are found to generate higher rates of trash.

### Suggested Language:

Equivalent alternative land uses: An MS4\* permittee with regulatory authority over priority land uses\* may issue a request to the applicable permitting authority\* that **the MS4** be allowed to comply under Chapter IV.B.3.a.1. with alternate land uses within its jurisdiction that generate rates of trash that are equivalent to or greater than one or more of the high density residential, industrial, commercial, mixed urban, and/or public transportation station sites, facilities or land uses defined above.

**Comment:** The second sentence description of tasks necessary to establish a ‘Comparative Trash\* Generation Rate’ establishes a framework of comparative activities, removes subjectivity and should not be at the discretion of the permitting authority to approve or reject.

### Suggested Language:

*‘Comparative Trash Generation Rate: **Shall be a rate** 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 **necessary to establish a defensible comparison (e.g. within one standard deviation of the geometric mean)** as required by the permitting authority.*

- 15) **Reference:** Draft text of the Trash Amendments proposed to Appendix A: Glossary of the ISWEBE Plan TRASH

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. .

**Comment:** The current definition of trash is far reaching. It can be legally construed to include virtually every solid material from common trash to sand.

### Suggested Language:

**Trash means macroscopic, solid objects, consisting of anthropogenic substances, that are generated by human activity and which have been**

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*released to the environment either as a result of intentional improper disposal, unintentionally as a result of careless handling or storage, or by accident. Prior to its release to the environment, trash would be either a material (if still considered usable), or a solid waste (once a decision has been made to discard it). "Anthropogenic substances" in this context specifically refers to the underlying substance and is intended to capture manufactured substances; it thus excludes fecal waste, green waste, food waste, soil, sand, and sediment, but includes objects made of paper, metal, plastic, glass, concrete rubble, milled wood, and other manufactured materials.*

*Two categories of trash are recognized:*

- 1. Industrial/commercial process trash: This category is any trash generated and released in conjunction with industrial or commercial activity, such as transport, handling, processing, use, manufacture, or disposal of materials or solid waste. This category includes trash generated as a result of improper handling transport, or disposal of solid waste that was initially properly disposed of by another end user.*
- 2. End-user trash: This category is any trash generated and released as the result of improper disposal by the end user or consumer of a product, packaging, or materials.*

**Reference:** The Substitute Environmental Document page 135 Section 6.8.2 of the staff report

. . . "Full capture systems are placed at the inlet (catch basin inserts) or outlet (trash net) of the storm drain system, or inline (vortex separation system) and do not require any type of re-contouring of the surrounding area nor alteration of any stream courses. . ."

**Comment:** The retrofitting existing drainage systems with full capture devices that include both drain inlet screening or inline devices may result in adverse effects on the hydraulic capacities of those systems that could result in significant localized flooding and unsafe roadway conditions. The Substitute Environmental Document page 135 Section 6.8.2 of the staff report, does not adequately address this issue. The document indicates that proper maintenance is adequate mitigation for the issue of 'clogged devices' that may cause flooding, mainly due to trash accumulation and leaf litter and therefore this is a less than significant impact. In areas with ice and snow accumulation, ongoing maintenance of drain inlet capture devices will not mitigate clogging devices due to ice and snow. In these higher elevations, clogged devices may exacerbate driver safety issues, cause flooding and additional erosion due to flooding, and restrict access to the storm drain system for maintaining flows in the winter. The only solution for communities subjected to these conditions is to install vortex devices within their mainlines which is more expensive and difficult to access under

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snow load conditions. **The requirements of the Trash Amendment should take into consideration winter weather conditions and be seasonally relaxed to accommodate them.**

In closing, the SSC requests the State Board carefully revise the language within the draft Amendment to address the issues referred to herein. We believe it is in the best interest of the SSC and the State Board to continue discussions on these items so the final Amendment adopted by the State Board has clear, unambiguous language that will result in a reduction of trash throughout the State.

Please contact Chris Kraft, Engineering Manager, City of Roseville Development & Operations Department at (916) 774-5373 if you have questions or would like to discuss any items further.

Sincerely,



Susan Rohan,  
Mayor  
City of Roseville



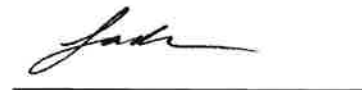
Tricia Wotan,  
Environmental Regulations Manager  
City of Monterey



Paul Saini  
Associate Civil Engineer  
County of Stanislaus



David Mohlenbrok  
Environmental Services Manager  
City of Rocklin



Jason Rhine,  
Legislative Representative  
League of California Cities



Robert Ketley  
Senior Utilities Engineer  
City of Watsonville



Greg Meyer  
Public Works Director  
City of Woodland



Staci Heaton  
Regulatory Affairs Advocate  
Regional Council of Rural Counties

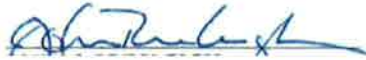


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Edward S. Kreins,  
Interim City Manager  
City of Morro Bay



John Presleigh  
Director of Public Works  
County of Santa Cruz

County of Placer Department of Public Works



Ken Grehm  
Director, Public Works



Maria Hurtado  
Interim City Manager  
City of Tracy



Mark Hutchinson  
Deputy Public Works Director  
San Luis Obispo County



Stephen Schwabauer  
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Cc:

Senator Jim Nielsen  
Senator Bill Monning  
Senator Cathleen Galgiani  
Senator Anthony Cannella  
Senator Lois Wolk  
Senator Tom Berryhill  
Senator Ted Gaines

Assembly Member Beth Gaines  
Assembly Member Mark Stone  
Assembly Member K.H. Achadjian  
Assembly Member Susan Talamantes-Eggman  
Assembly Member Kristin Olsen  
Assembly Member Mariko Yamada  
Assembly Member Luis Alejo  
Assembly Member Brian Dahle  
Assembly Member Dan Logue  
Assembly Member Frank Bigelow  
Assembly Member Richard Pan



# County of San Diego

**RICHARD E. CROMPTON**  
DIRECTOR

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Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814

VIA EMAIL TO: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

**COMMENTS ON PROPOSED AMENDMENTS TO THE WATER QUALITY CONTROL PLAN FOR INLAND SURFACE WATERS, ENCLOSED BAYS AND ESTUARIES OF CALIFORNIA AND THE WATER QUALITY CONTROL PLAN FOR OCEAN WATERS OF CALIFORNIA**

Dear Ms. Townsend:

The County of San Diego appreciates the opportunity to provide comments on the Proposed Trash Amendments to 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 (Ocean Plan). The County of San Diego is again encouraged by the State Water Resources Control Board's (State Board) stakeholder engagement in the adoption process, as this provides an opportunity to incorporate stakeholder perspectives into the final amendments and develop a sound approach for controlling trash.

The County of San Diego shares the State Board's concern for clean water in our waterways and fully appreciates the important role a Trash Policy would play in ensuring clean water for our communities. We support the use of the narrative water quality objective as proposed, which provides a clear, concise definition from which the County of San Diego can prioritize management decisions. As proposed, the State Board has provided incentives for jurisdictions to develop innovative approaches to regulatory compliance.

Furthermore, the County of San Diego supports the use of priority land uses as a means to identify implementation areas for trash control measures. Still, additional local

flexibility is needed so that local resources are used wisely to solve "real" problems, not perceived problems.

However, as currently drafted, the County of San Diego cannot support the Proposed Trash Amendments. Our primary concern is that the record supporting the Proposed Trash Amendments does not provide sufficient evidence that trash is a statewide problem that requires automatic implementation of all actions by all municipalities. The regulation of trash should be addressed in a manner consistent with other pollutants; that is, in which actions are required only after an impairment has been defined or a water quality objective has been found to be exceeded, and that the regulated entity has contributed to that impairment or water quality objective exceedance (i.e. reasonable potential has been established). The Proposed Trash Amendments bypass this evaluation and preemptively presume that trash is a problem in all waters that require actions by all municipalities that discharge to those waters. The Draft Staff Report does not provide sufficient evidence to justify this conclusion. The Report's justification for identifying trash as a problem relies heavily on the fact that 73 waterbodies are listed for trash and some studies that have quantified trash in areas around the state. However, this represents only 2% of the waterbodies in California – meaning that 98% of waterbodies in California are not impaired by trash. Only four regions have trash listings, and the majority of those listings are in heavily urbanized coastal areas. Additionally, all but one of the studies cited in Appendix A as justifying the trash problem come from the heavily urbanized coastal areas, with most from Los Angeles and San Francisco areas. The only study from an inland area, the Caltrans study in the Fresno Stockton region, noted that most of the debris collected in the study was vegetation with only 5 to 18% by weight being trash as defined by the Proposed Trash Amendments. The amendments impose costly regulatory requirements upon areas of the state where the regulation is not needed, thereby potentially diverting resources from activities to address priority pollutants in those areas, all in the name of "statewide consistency". However, the record does not demonstrate why statewide consistency is necessary, or even beneficial, for this pollutant.

Given the lack of justification that trash is a problem in all waters, the County of San Diego proposes the following approach for the Proposed Trash Amendments:

1. Establish the proposed narrative water quality objective.
2. Establish implementation procedures for the water quality objective that are triggered when the water quality objective is exceeded or the waterbody is found to be impaired by trash.
3. Specify that permit conditions consistent with the implementation procedures will be established in NPDES permits only when the water quality objective has been exceeded and the NPDES permit holder has been identified as the source.

We feel this approach would be consistent with the approach that is utilized to regulate all other pollutants in the State and still provide for statewide consistency in addressing trash where it is identified as being a problem. We request that the Proposed Trash Amendments be modified to reflect this approach.

In addition to this overarching concern and proposed modification to the Proposed Trash Amendments, we have identified a number of other key concerns and recommended improvements to the amendments are detailed below.

**1. The Proposed Trash Amendments Would Impose New State Requirements on Local Entities Without Identifying a Funding Reimbursement Source**

The County of San Diego conservatively estimates that the proposed new requirements reflected in the Proposed Trash Amendments would impose a cost burden on local taxpayers in our County of between \$2.7 and \$4.95M. This cost is in addition to the billions of dollars in the region in unfunded mandates created by the Bacteria TMDL provisions in the recently adopted MS4 Permit (R9-2013-0001). Other public entity copermitees statewide would incur similar unfunded costs imposed by the policy. In order to consider supporting all of the requirements set forth in the new policy, the County of San Diego urges the State Water Resources Control Board to first identify a reliable funding source to reimburse local jurisdictions for the cost of the new requirements, as mandated by the California Constitution.

**2. Compliance with Water Quality Objective and Prohibition of Trash Discharge**

The Proposed Trash Amendments provide a narrative water quality objective (WQO) in Chapter III.B of the ISWEBE Plan and Chapter II.C of the Ocean Plan, and a prohibition of trash discharge in Chapter IV.B.2 of the ISWEBE Plan and Chapter III.I.6 of the Ocean Plan. The permittees would be considered in full compliance with the prohibition of trash discharge so long as the permittees were fully implementing Track 1 or Track 2 (Chapter IV.B.2.a of the ISWEBE Plan and Chapter III.I.6.a of the Ocean Plan). However, the Proposed Trash Amendments do not indicate that meeting the discharge prohibition requirements would also mean the permittees are in compliance with receiving water limitations (i.e., meeting the WQO). This could result in permittees being subject to a Trash TMDL for the receiving water, even if they are in compliance with the trash provisions contained in their MS4 Permit.

**Recommendation:** The County of San Diego recommends adding language to the Proposed Trash Amendments indicating the permittees are in compliance with the receiving water limitations so long as they are fully implementing Track 1 or Track 2.

**3. Watershed Pollution Prioritization**

The County of San Diego and other municipal separate storm sewer system (MS4) Copermitees in our watersheds have been working extensively with the San Diego Regional Water Quality Control Board to develop and implement a MS4 Permit based on watershed planning and the prioritization of water quality conditions.

The comprehensive planning process considers trash, as well as a host of other potential pollutants, with trash currently categorized as a lower tier priority pollutant. Additionally, the expected costs to implement the Proposed Amendments will be substantial and the value of these requirements are

uncertain, given the current receiving water priorities developed through the stakeholder process. As drafted, the Proposed Trash Amendments would supersede existing stakeholder-based watershed planning efforts, effectively determining, without validation, that trash is the highest priority in all watershed areas and potentially requiring the refocusing of resources from stakeholder developed priorities.

Recommendation: The County of San Diego recommends including language after Chapter IV.B.3.a of the ISWEBE Plan and Chapter III.L.2.a of the Ocean Plan that states: A MS4 Permittee may request that compliance requirements for trash be established through a watershed prioritization and planning process outlined in MS4 permit requirements. This prioritization process would allow for evaluation of the trash in the context of other watershed priorities and provide a mechanism for modifying or reducing the requirements for compliance in accordance with the procedures outlined in the MS4 permit and an approved watershed plan. Through this process, monitoring data could be utilized to demonstrate that trash controls are not necessary for all priority land uses.

#### 4. Addressing Priority Land Uses

The Proposed Trash Amendments appear to require implementation of Track 1 or Track 2 for *any* storm drain that captures *any* runoff from a priority land use [Chapter IV.B.3.a(1)/IV.B.3.a(2) of the ISWEBE Plan and Chapter III.L.2.a(1)/Chapter III.L.2.a(2) of the Ocean Plan]. This would trigger compliance requirements for a storm drain even if only a very small portion of a priority land use drains into the storm drain.

Recommendation: The County of San Diego recommends adding language to Chapter IV.B.3.a(1)/IV.B.3.a(2) of the ISWEBE Plan and Chapter III.L.2.a(1)/Chapter III.L.2.a(2) of the Ocean Plan, stating that permittees must address catchment areas where the priority land uses are greater than 25% of the total catchment area.

- (1) Track 1: Install, operate, and maintain full capture systems in their jurisdictions for all storm drains that captures runoff in catchment areas where ~~from one or more of the~~ priority land uses comprise >25% of the land area in the catchment in their jurisdictions; or
- (2) Track 2: Install, operate, and maintain any combination of full capture systems, other treatment controls, institutional controls, and/or multi-benefit projects within either the jurisdiction of the MS4 permittee or within the jurisdiction of the MS4 permittee and contiguous MS4s permittees. So long as such combination achieves the same performance results as compliance under Track 1 would achieve for all storm drains that captures runoff in catchment areas where ~~from one or more of the~~ priority land uses comprise >25% of the land area within the catchment within such jurisdiction(s).

#### 5. Priority Land Use Designation

As defined in the Proposed Trash Amendments, the predefined priority areas may not be appropriate for all jurisdictions, the areas do not consider local



knowledge of receiving water conditions and they do not consider previous data collection efforts. As currently drafted, the Proposed Trash Amendments assume that there is a problem in the defined priority areas, effectively forcing a costly "one size fits all" approach onto the jurisdictions. County of San Diego supports the concept of prioritized land uses to address problem areas; however, the approach should allow for more local flexibility in this prioritization.

The County of San Diego has managed an extensive monitoring program for evaluating trash conditions at the MS4 major outfalls for many years resulting in an in-depth understanding of the problem areas within its watersheds. While the Proposed Trash Amendments provide flexibility for the permitting authorities to designate additional priority areas, or for responsible agencies to define alternative priority areas, it does not appear to allow for responsible agencies to lower the priority in certain areas. Local knowledge, supported by data, should be able to suffice as justification for jurisdictions to designate appropriate drainage areas as "non-priority" regardless of land use.

Recommendation: Modify language in Section III.L.2. (Ocean Plan) and IV.B.3 (ISWEBE Plan) by adding Section III.L.2.e and IV.B.3.e, respectively, as follows:

e. A regulated MS4 may determine that areas within priority land uses do not generate trash that accumulates in state waters (or in areas adjacent to state waters) in amounts that would either adversely affect beneficial uses, or cause nuisance. In the event that the regulated MS4 identifies such areas and is able to provide data supporting the finding, the permitting authority may waive the requirement for the MS4 to comply with Chapter III.L.2.a/IV.B.3.a with respect to the identified locations. The regulated MS4 shall submit documentation of the continued condition with annual reports as required under Section III.L.6/IV.B.7.

#### 6. Equivalent Alternate Land Uses

Part (6) of the Priority Land Uses definition from the ISWEBE Plan allows permittees to issue a request to the San Diego Regional Water Quality Control Board to comply with Chapter IV.B.3.a.1 of the ISWEBE Plan using alternate land uses equivalent to the defined Priority Land Uses. However, as written, the Chapter reference for the ISWEBE Plan only allows the permittees to address the equivalent alternate land uses if utilizing Track 1. The reference should be changed to allow the permittees to address the equivalent alternate land uses via Track 1 or Track 2.

Recommendation: Modify the Chapter reference in Part (6) of the Priority Land Uses definition as such: ...comply under Chapter IV.B.3.a.1 and Chapter IV.B.3.a.2.

Part (6) of the Priority Land Uses definition from the Ocean Plan allows permittees to issue a request to the San Diego Regional Water Quality Control Board to comply with Chapter IV.B.3.a.1 of the ISWEBE Plan using alternate land uses equivalent to the defined Priority Land Uses. However, as written, the Chapter reference for the Ocean Plan only allows the permittees to address the equivalent alternate land uses if utilizing Track 1. The reference should be

changed to allow the permittees to address the equivalent alternate land uses via Track 1 or Track 2. In addition, the chapter reference is incorrect. The reference reads Chapter III.J.2.a.1, while it should read Chapter III.L.2.a.1

Recommendation: Modify the Chapter reference in Part (6) of the Priority Land Uses definition as such: ...comply under Chapter III.JL.2.a.1 and Chapter III.L.2.a.2.

#### 7. Permitting Authority's Discretion to Revise Compliance Dates

Chapter IV.B.3.d of the ISWEBE Plan and Chapter III.L.2.d of the Ocean Plan allows permitting authorities to determine that other, specific land uses generate substantial amounts of trash and require permittees to implement Track 1 and Track 2 for those land uses. If a permitting authority adds new priority land uses during the duration of the compliance period, it could be difficult for a permittee to achieve compliance with the Proposed Trash Amendments if the areas they are required to address change late in the 10-year required compliance period.

Recommendation: The County of San Diego recommends adding language to the Proposed Trash Amendments requiring a permitting authority to consider revisions to the final compliance date of the Proposed Trash Amendments if new priority land uses are added during the duration of the compliance period.

#### 8. Track 2 Performance Demonstration

The Proposed Trash Amendments, in Chapter IV.B.7.b and Chapter III.L.6.b of the ISWEBE Plan and Ocean Plan, require permittees implementing Track 2 to monitor in order to demonstrate mandated BMP performance results; effectiveness of the full capture systems, other structural BMPs, institutional controls, and/or multi-benefit projects; and compliance with performance standards. In addition, the permittees must monitor the amount of trash in receiving waters. Demonstration of performance under Track 2 should not be limited to monitoring, as demonstrating effectiveness of trash BMPs through monitoring is extremely difficult. Permittees should be allowed to propose the method of demonstrating performance in their plan. In addition, receiving water monitoring should not be required since other sources contribute trash. While a permittee may want to conduct receiving water monitoring to demonstrate performance, it should not be mandated in the case that other methods are appropriate (e.g. pounds of trash removed through a control measure).

Recommendation: The County of San Diego recommends the State Water Board revise the language in the Proposed Trash Amendments (Chapter IV.B.7.b and Chapter III.L.6.b of the ISWEBE Plan and

Ocean Plan, respectively) to allow for more flexibility in determining Track 2 performance and to remove the requirement for receiving water trash monitoring.

#### 9. Standards of Equivalency

If permittees chose Track 2, they must demonstrate equivalency ("same performance results") as Track 1 (Chapter IV.B.7.b and Chapter III.L.6.b of the ISWEBE Plan and Ocean Plan, respectively). However, standards of equivalency

are not provided in the Proposed Trash Amendments. This information is essential to inform the decisions regarding the choice of track because it is unknown at this time what efforts will be considered "equivalent" to full-capture. Permittees incur financial and compliance risks in choosing a Track, which has no guidelines for determining compliance or placing themselves in a situation where the guidelines would be subject to on-going interpretation. During the Workshop, Mr. Bishop indicated that jurisdictions will likely implement a blend of Tracks 1 and 2 due to practical considerations. To support this pragmatic approach, a reasonable monitoring alternative needs to be proposed for those drainages where a full capture device is not feasible due to engineering constraints or is unnecessary.

Recommendation: The County of San Diego recommends the removal of the standard of equivalency for Track 2 from the Proposed Trash Amendments. Instead, allow permittees to propose a readily achievable and practical way that will indicate compliance with the policy for drainages without full-capture devices.

#### 10. Existing Trash Control Measures

The County of San Diego has implemented various trash control measures within the watersheds under its jurisdiction. However, the Proposed Trash Amendments do not have a provision that details how existing trash control measures would be utilized for evaluating compliance with the Proposed Trash Amendments.

Recommendation: The County of San Diego recommends including language in the Proposed Trash Amendments to clarify that existing trash controls can be considered as contributing to compliance with the Trash Amendments.

#### 11. Trash Total Maximum Daily Load Development

It appears that the Proposed Trash Amendments will serve as an alternative to a TMDL, thereby preventing the need to develop trash TMDLs in the future. The County of San Diego recommends the State Board add additional language to clarify the intent of the Proposed Trash Amendments with respect to the development of future TMDLs. It seems that implementation of the Proposed Trash Amendments represents a single regulatory action addressing MS4 permittee requirements thereby removing the need to develop wasteload allocations via a TMDL for MS4 permittees.

Recommendation: The County of San Diego recommends that language should be included in the Proposed Trash Amendments stating that if the requirements in the Proposed Trash Amendments are being met, then no Trash TMDLs will be developed for those water bodies where the requirements are being fully implemented.

#### 12. Incorrect Section References

There are several incorrect section references in the ISWEBE Plan.

Recommendation: For the ISWEBE Plan, all references to Chapter IV.C.3, Chapter IV.C.3.a, or Chapter IV.C.3.b should be revised to Chapter IV.B.3, Chapter IV.B.3.a., and Chapter IV.B.3.b, respectively.

13. Isolated Rural Communities

The County of San Diego is a Phase I MS4 that encompasses both urbanized communities and rural communities, including 22 Community Planning Areas within the unincorporated county. These rural communities are included in the footprint of the Phase I MS4 out of convenience, not necessity. For example, two of these rural communities, Julian and Campo, have commercial areas that will be under the Proposed Trash Amendments. However, these rural communities have limited resources available to fund programs, and there is not a reasonable return on investment for these small communities to implement extensive trash controls as there is limited trash generation in these areas. The well-established Community Planning Groups in these rural areas have established priority issues through rigorous stakeholder planning processes. Based on their local planning processes, the threat of firestorms may be their highest priority for funding. Furthermore, Julian is a tourist area, which already focuses on mitigating the impacts of trash. Consideration of exempting rural areas from the Proposed Trash Amendments, which are not directly contiguous to urbanized communities, would allow these rural communities to continue to focus their limited resources on their highest priority conditions. In San Diego County, this would only apply to eight rural communities.

Recommendation: The County of San Diego recommends excluding isolated rural communities that are not contiguous to urbanized communities from the requirements of the Proposed Trash Amendments by adding a footnote to the sentence in Chapter IV.B.3.a/Chapter III.L.2.a of the ISWEBE Plan and Ocean Plan, respectively stating: Priority Land Uses contained within isolated rural communities are exempt from the requirements of Chapter IV.B.3.a.(1) and (2)/Chapter III.L.2.a.(1) and (2).

Alternatively, a pathway should be included that allows these isolated communities to opt out with local Regional Board approval. This could be accomplished by modifying language in Section IV.B.3 (ISWEBE Plan) and III.L.2. (Ocean Plan) by adding Section IV.B.3.e and III.L.2.e, respectively, as follows:

e. A regulated MS4 may determine that areas within priority land uses do not generate trash that accumulates in state waters (or in areas adjacent to state waters) in amounts that would either adversely affect beneficial uses, or cause nuisance. In the event that the regulated MS4 identifies such areas and is able to provide data supporting the finding, the permitting authority may waive the requirement for the MS4 to comply with Chapter IV.B.3.a/III.L.2.a with respect to the identified locations. The regulated MS4 shall submit documentation of the continued condition with annual reports as required under Section IV.B.7/III.L.6.

14. General Industrial Stormwater Permit

The Proposed Trash Amendments are inconsistent in the way in which they address the General Industrial Stormwater Permittees. In Section III.1.6. (Ocean Plan) and Section Section IV.B.2.d (ISWEBE Plan), the prohibition of discharge is stated as applying to "the discharge of preproduction plastic by manufactures of preproduction plastics, transporters of preproduction plastics, and manufacturers that use preproduction plastics in the manufacture of other products." However, the next sections of each Plan require that all industrial activities covered under the General Industrial Stormwater Permit comply with the provisions of the Proposed Trash Amendments. Since not all industrial activities deal with preproduction plastic, this provision should not be applied to all industrial permittees. The County of San Diego requests an exemption to those industries that never use the preproduction pellets to be included. For example, airports, wastewater treatment facilities, and closed landfills should be exempted.

Recommendation: The County of San Diego recommends clarifying that the discharge prohibition is not applicable to all industrial dischargers by modifying Chapter IV.B.3.c/Chapter III.L.2.c of the ISWEBE Plan and Ocean Plan as follows:

Dischargers that are subject to NPDES permits for discharges of storm water associated with industrial activity (including construction activity) that relate to the manufacture of preproduction plastics, transporters of preproduction plastics, and manufacturers that use preproduction plastics in the manufacture of other products shall be required.

Thank you for your time and consideration of these comments. If you have questions, please contact Jo Ann Weber at (858) 495-5317 or at [JoAnn.Weber@sdcounty.ca.gov](mailto:JoAnn.Weber@sdcounty.ca.gov).

Sincerely,



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