



Marin County Department of Public Works  
P.O. Box 4186 San Rafael, CA 94913-4186  
Tel. (415) 473-6528 Fax (415) 473-7221  
[www.mcstoppp.org](http://www.mcstoppp.org)



August 1, 2014

**Member Agencies:**

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

Belvedere

Corte Madera

Submitted via email to: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

County of Marin

**Subject: Comment Letter – Trash Amendments**

Fairfax

Dear Ms. Townsend and Members of the State Water Board:

Larkspur

Thank you for the opportunity to submit comments on the proposed Amendments to Statewide Water Quality Control Plans to Control Trash (proposed Trash Amendments). These comments are submitted to the State Water Resources Control Board (State Water Board) by the Marin County Stormwater Pollution Prevention Program (MCSTOPPP) on behalf of its 12 local government member agencies.<sup>1</sup>

Mill Valley

Novato

Through MCSTOPPP and numerous other programs, the County of Marin (County) and Marin's municipalities share a strong commitment to protecting the environment and water quality. Individually and collectively we successfully implement programs and projects to protect and enhance Marin's creeks and watersheds.

Ross

San Anselmo

San Rafael

Marin County municipalities began developing and implementing their stormwater programs a decade before the State of California issued its first Phase II General Permit in 2003. In 1995, MCSTOPPP was formalized and began work on strategies to integrate Federal and State mandated municipal stormwater programs with local popular efforts to preserve and enhance creek and wetland habitat. MCSTOPPP has established a track record of successfully protecting and enhancing watersheds throughout Marin County. MCSTOPPP's current stormwater program is proactively managing and minimizing trash related impacts on water quality through several key programs including the following, as well as those presented in Attachment 1 to this letter:

Sausalito

Tiburon

- My Earth Day Marin Coalition – The Coalition sent out press releases, and conducted outreach to promote 23 volunteer trash cleanup sites throughout the County in 2012-2013. ([www.myeearthdaymarin.org](http://www.myeearthdaymarin.org)).
- Coastal Cleanup Day – MCSTOPPP staff regularly performs co-captain duties with partners in Marin. For example, in 2012 we worked with Marin County Parks and

<sup>1</sup> Belvedere, Corte Madera, County of Marin, Fairfax, Larkspur, Mill Valley, Novato, Ross, San Anselmo, San Rafael, Sausalito, Tiburon.

Marin Conservation League/City of Novato at two sites on Coastal Cleanup Day, removing 19,000 pounds of trash and 2,000 pounds of recyclables.

- Zero Waste Program – Countywide, the Zero Waste Program and partners have achieved 75% landfill diversion. This exceeds the current 50% landfill diversion mandate from the state. We think this program complements litter abatement programs in Marin.
- Plastic Bag Bans – Most municipalities in Marin County have or plan to adopt plastic bag bans. Bag bans have been proven to reduce the amount of plastic found in waterways.
- Table 3-1 (included here as Attachment 1) and Chapter 6 in the MCSTOPPP 2012-2013 Annual Report detail additional stormwater program efforts to address litter: [http://www.marincounty.org/depts/pw/divisions/mcstoppp/about-mcstoppp/~media/Files/Departments/PW/mcstoppp/Annual%20Report/2012\\_2013/MCSTOPPP1213\\_AR\\_ReportOnly.pdf](http://www.marincounty.org/depts/pw/divisions/mcstoppp/about-mcstoppp/~media/Files/Departments/PW/mcstoppp/Annual%20Report/2012_2013/MCSTOPPP1213_AR_ReportOnly.pdf).

MCSTOPPP greatly appreciates the time and energy that State Water Board staff has dedicated to preparing the proposed Trash Amendments. As written, the proposed Trash Amendments will substantially increase current program implementation costs and divert resources from other priority programs. We urge you to direct staff to revise the proposed Trash Amendments based on our comments and recommendations below to make implementation more feasible for Phase II permittees in Marin County.

#### **Comments and Recommendations:**

##### **1. Certified Full-Capture Devices**

The proposed Trash Amendments indicate that the State Water Board would take responsibility for the certification process for full capture systems, but those full capture systems previously certified by the Los Angeles Regional Water Board would remain certified for use by permittees as a compliance method. A more extensive list of certified devices should be prepared prior to the adoption of the proposed Trash Amendments. Full-trash capture devices vary widely in capital and maintenance costs. Therefore, having a better idea of the devices that will be certified is necessary for developing credible costs estimates to inform permittees whether to commit to Track 1 or Track 2. Alternatively, the language could be revised to indicate that any full-capture device that meets the stated criteria fulfills the certification requirement.

The timeframe for obtaining certification is a concern. The Executive Officer approval process should have a rapid turnaround time to allow permittees to move forward with planning and installation within the time schedule granted.

Recommendation: MCSTOPPP recommends that a more extensive list of certified devices, including the Bay Area Trash Demonstration Grant devices, should be prepared prior to the adoption of the proposed Trash Amendments. MCSTOPPP also recommends refining the

full-capture device certification process to streamline the certification process as much as possible.

## **2. Standards of Equivalency**

If choosing Track 2, permittees must demonstrate equivalency (“same performance results”) as Track 1. The proposed Trash Amendments provide no guidance on either what will be considered an acceptable implementation plan or how equivalency should be demonstrated. Standards of equivalency need be established prior to or with the adoption of the Trash Amendments. Clearly establishing these expectations 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-trash 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.

Recommendation: MCSTOPPP recommends that standards of equivalency be established prior to or with the adoption of the proposed Trash Amendments. MCSTOPPP feels that visual assessments of priority areas are the most appropriate for determining success of Track 2 control measures.

## **3. Approach to Performance Demonstration and Receiving Water Monitoring**

Demonstration of performance under Track 2 should not be limited to monitoring BMP performance because demonstrating effectiveness of trash BMPs through monitoring (e.g., counting, weighing, measuring volume) is extremely difficult and expensive. Permittees should be allowed to propose the method of demonstrating performance in their plan. For instance rigorous visual assessments have proven to be effective tools in some jurisdictions. A current effort in the Bay Area (the Bay Area Stormwater Management Agencies Association (BASMAA) Tracking California’s Trash Proposition 84 grant funded project) will provide tools for permittees to incorporate into their plans in the future. (The project is expected to be completed in 2017.) For example, the project will establish quantitative relationships between trash loading from MS4s and on-land visual assessment condition categories. This will provide a viable alternative to quantifying the level of trash discharged from MS4s.

Recommendation: MCSTOPPP objects to the requirement for stormwater permittees to conduct receiving water monitoring. As noted, other sources contribute trash to receiving waters and imposing this requirement on stormwater permittees will not provide an indication of effectiveness stormwater trash control programs. While stormwater permittees may want to conduct receiving water monitoring to demonstrate performance, it should not be mandated. Additionally, MCSTOPPP feels that visual assessments of priority areas are the most appropriate for determining success of Track 2 control measures.

## **4. Number of Priority Land Uses Addressed**

Track 1 and 2 language indicates that permittees must “capture runoff from one or more of the priority land uses in their jurisdictions.” Does this mean permittees could install full-trash capture (or an equivalent combination) in only one of the five priority land use areas

identified? Additionally, for compliance, would permittees have to install full-trash capture (or an equivalent combination) in 100% of catch basins in that priority land use?

Recommendation: MCSTOPPP recommends clarifying the language to the proposed Trash Amendments to address these questions.

## **5. Review of Priority Land Uses**

There are many instances in Phase II communities where some portion of the priority land use area is not in fact a high trash generating area. Rather than installing devices or institutional controls in areas where the return on the investment will be low, we strongly recommend that the Trash Amendments allow for flexibility by establishing a process through which permittees could petition their Regional Water Board to review the areas in question and give them the authority to exempt such areas if they are found not to be high trash generating. The exemption could include an 'expiration date' or a requirement to revisit priority areas at some frequency in the event the trash situation in those areas worsens. The exemption process could include visual assessments of the priority areas as a first step in determining where and what controls to put in place.

The draft Trash Amendments say that *"an MS4 may request its permitting authority to approve an equivalent alternative land use if that MS4 has land use(s) within its jurisdiction that generate trash at rates that are equivalent to or greater than one or more of the priority land uses listed"*. This gives permittees the option of adding land uses, but doesn't allow the exclusion of low generating sub-regions of an otherwise high trash generating land use.

Recommendation: MCSTOPPP recommends that the State Water Board modify language in Chapter IV.B.3 (ISWEBE Plan) and Chapter III.L.2. (Ocean Plan) and by adding Chapter IV.B.3.e and Chapter 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 Chapter IV.B.7 (III.L.6).

## **6. Green Infrastructure**

The proposed Trash Amendments staff report states "treatment controls likely to be used for compliance with the proposed Trash Amendments may include installation of catch basins or inserts within existing catch basins." To support municipalities that are incorporating green infrastructure/Low Impact Development (LID) installations into their Capital Improvement Programs (as required in some cases by the Phase II permit), the proposed amendments and certified trash capture devices should specify that properly designed and built LID measures qualify as full-capture devices under Track 1.

Recommendation: MCSTOPPP recommends that the State Water Board recognize the value of LID by including some LID measures as full-capture under Track 1.

### **7. Funding Mechanisms**

Please help permittees establish dedicated sources of non-competitive funding for trash capture. Prop 218 currently precludes stormwater entities from raising their fees for stormwater management (where fees even exist as the Phase II regulations came into effect after Prop 218 was passed). Even with the recent changes to Prop 218, catch basin inserts, the likely type of control device, would not be considered eligible for the water supply exception of resulting from AB 2403.

A great example of a non-competitive program that could be replicated is the Used Oil Payment Program (OPP). The California Oil Recycling Enhancement Act (Act) provides funding to assist local governments in maintaining an on-going used oil and used oil filter collection/recycling program for their communities. The OPP is funded by a state tax on automotive oil. Another example is the program that exists for automobile tires. A fee is paid at purchase to fund the proper disposal at the end of the tire's life.

Recommendation: MCSTOPPP recommends that the State Water Board help develop innovative ways for funding trash control programs.

### **8. Keep Track 2 to Assist with Flooding Concerns**

Public comments have been made to your Board suggesting the elimination of Track 2 as an option for compliance with the proposed amendments. MCSTOPPP would like to recommend against this suggestion. Public works departments throughout Marin have expressed concerns that trash capture devices will cause more flooding problems during heavy storm events. During a storm event leaves, branches, and dirt clog storm drains and public works crews expend considerable efforts to clear them of debris. The concern is that trash capture devices will exacerbate an existing problem. Therefore, it will be important to keep Track 2 as an option in the proposed requirements. This will provide Marin's municipalities with the flexibility they need to judiciously install full capture devices in locations that will not exacerbate flooding issues.

Recommendation: MCSTOPPP recommends that the State Water Board keep Track 2 as an option in the proposed Amendments to provide flexibility to municipalities with flooding concerns.

### **9. Expand Track 2 Flexibility to Support Clean Watersheds**

Several municipalities in Marin have explained that their municipal storm drain system is not a primary pathway for trash ending up in our waterways. Due to topography, some trash issues are due to wind blowing trash into waterways and along the edges of parks. The State Water Board should provide more credit in Track 2 for collaborative community efforts to abate litter, implement source controls and perform watershed-wide clean-ups.

Recommendation: MCSTOPPP recommends that the State Water Board keep Track 2 as an option in the proposed Amendments to provide a comprehensive approach to keeping our watersheds clean.

**10. Provide Final Compliance Time Extensions for Regulatory Source Controls**

Under the proposed Trash Amendments, as currently drafted, the Water Board could, at its discretion, provide a final compliance time extension of up to three years for regulatory source controls (such as bans of single-use consumer products) implemented by Phase I or Phase II Municipal Permittees with regulatory authority over land uses (a one year time extension would be considered for each adopted regulatory source control). We support this approach and request the State Water Board to direct staff to remove Regional Water Board discretion from the proposed Trash Amendments and instead grant automatic time extensions for regulatory source controls that take effect prior to or within three years of the effective date of the proposed Trash Amendments.

Recommendation: MCSTOPPP recommends that the State Water Board grant automatic time extensions for regulatory source controls that take effect prior to or within three years of the effective date of the proposed Trash Amendments.

**11. Provide CEQA Assistance to Permittees**

Please expand the analysis provided in the Substitute Environmental Document (SED) to create a tiered CEQA document that will allow local agencies to satisfy project-specific CEQA requirements associated with the installation of full trash capture devices. If this is not possible, please consider providing a guidance to help simplify the analysis for local agencies.

Thank you for your consideration of this important topic. We appreciate the opportunity to provide our comments.

Sincerely,



Terri Fashing  
MCSTOPPP Stormwater Program Administrator

C (electronic): Raul Rojas, Director of Public Works, County of Marin  
Saaid Fakharzadeh, Assistant Director of Public Works, County of Marin  
Steve Devine, Program Manager, Marin County DPW Waste Management  
Craig Parmley, Roads Maintenance Superintendent, Marin County DPW Roads  
James Raives, Senior Open Space Planner, Marin County Parks  
Marin Public Works Association  
Paul Berlant, Executive Director, Marin General Services Authority  
MCSTOPPP Agency Staff Committee  
MCSTOPPP Citizens Advisory Committee  
Bruce Wolfe, Executive Officer, San Francisco Bay RWQCB

**Attachment 1: Trash and Debris Removal in Marin County in 2012-2013**

Municipality	Activity
<p><b>City of Belvedere</b></p>	<ol style="list-style-type: none"> <li>1. Each year on Coastal Cleanup Day in September, volunteers clean up a section of public shoreline along the San Rafael Avenue Seawall (Richardson Bay). City Public Works crews pick up the debris collected by volunteers and dispose of it in the dumpster at the city's corporation yard. The quantity of collected material is documented.</li> <li>2. Monthly and following storm events, Public Works staff perform litter patrol along public roadways and sections of shoreline to pick up trash.</li> </ol>
<p><b>Town of Corte Madera</b></p>	<ol style="list-style-type: none"> <li>1. Department of Public Works walks the High and Low Canals and the Cay Passage outfall weekly. All center medians are walked and cleaned weekly. All debris found is immediately removed and disposed of properly.</li> <li>2. In addition, the Town began a program to clean Shorebird Marsh more frequently after noticing an unusual amount of trash blowing into it from the Village Shopping Center.</li> </ol>
<p><b>County of Marin</b></p>	<ol style="list-style-type: none"> <li>1. Marin County Department of Public Works Roads staff and Flood Control Creek Maintenance staff routinely remove trash from roads and creeks that are owned or maintained by the County or the Marin County Flood Control and Water Conservation District.</li> <li>2. Marin County Parks volunteer program coordinated multiple projects: <ul style="list-style-type: none"> <li>• Volunteers conducted monthly beach cleanups at Agate Beach, adjacent the Duxbury Reef Area of Special Biological Significance.</li> <li>• Community volunteers, staff from a local business, and members of Congregation Rodef Sholom conducted ongoing litter pick-up and invasive species removal for the Mill Valley Bike Path that runs along Coyote Creek and Bothin Marsh.</li> <li>• Court-assigned volunteers regularly picked up litter at McInnis Park.</li> <li>• A partnership was developed with Save the Bay to conduct a monthly cleanup and restoration program at Creekside Park. Each program averaged 20 volunteers for three hours. Activities included sheet mulching, native planting, and removal of Harding grass and Bermuda grass (<i>Cynodon dactylon</i>), a non-native plant.</li> <li>• A partnership was developed with Save the Bay to conduct a monthly cleanup and restoration program at Creekside Park. Each program averaged 20 volunteers for three hours. Activities included sheet mulching, native planting, and removal of Harding grass and Bermuda grass (<i>Cynodon dactylon</i>), a non-native plant.</li> </ul> </li> <li>3. Marin County Parks had volunteers remove trash and invasive plants during Coastal Cleanup Day and Earth Day. Coastal Cleanup Day volunteers, including students from local schools such as Miller Creek Middle School, worked at five different sites. Earth Day volunteers worked at various beach, creek, and park locations.</li> </ol>
<p><b>County of Marin</b></p>	<ol style="list-style-type: none"> <li>4. Marin County Parks worked with students from Marin Waldorf School for three days weeding, sheet mulching and planting along tributary creeks of Stafford Lake.</li> </ol>

**Attachment 1: Trash and Debris Removal in Marin County in 2012-2013**

Municipality	Activity
<p><b>Town of Fairfax</b></p>	<ol style="list-style-type: none"> <li>1. Town coordinated creek cleanups with Fairfax Volunteers.</li> <li>2. Town has combination trash and recycling containers placed throughout its commercial district and in its parks. The trash containers are emptied daily Monday-Friday, and the recycling containers are emptied once a week.</li> <li>3. Littering on the streets is minimal and is picked up by street sweeping efforts. Parks and other Town properties have the most uncontained litter. Public Works staff monitors and cleans these areas as needed, on a daily basis Monday-Friday.</li> </ol>
<p><b>City of Larkspur</b></p>	<ol style="list-style-type: none"> <li>1. City staff remove trash in public areas of Larkspur Creek and the north side Corte Madera Creek. Marin Rowing Club stockpiles debris collected from the creek and stores it near their boat dock for Larkspur Public Works to haul away. Vegetation is maintained by pulling non-native and carefully maintaining and protecting native vegetation.</li> <li>2. City also performs work in conjunction with Friends of Corte Madera Creek to remove invasive <i>Spartina</i> species (cordgrass).</li> </ol>
<p><b>City of Mill Valley</b></p>	<ol style="list-style-type: none"> <li>1. The Sewerage Agency of Southern Marin (SASM, part of the City of Mill Valley) started a trash pick-up program. SASM staff walk the perimeter of their property once a week; this helps keep the nearby creek and the bay clean.</li> <li>2. Mill Valley Little League sent a strong letter to families instructing them to take responsibility for the batting cage trash and numerous baseballs that have been thrown into a tidal creek area adjacent to the corporation yard.</li> <li>3. Parks and Public Works supervisors have increased litter removal to every 3 months in city-owned and highly used public areas to include the Depot, areas downtown, Lomita (behind Whole Foods), and the Frontage Rd.</li> <li>4. The City held another very successful Mill Valley Beautification Day on Earth Day. This year Strawberry Point, Old Mill, and Mill Valley Middle School organized their own cleanup event to coincide with the City's event. The Cub Scouts cleaned up Boyle Park with over 15 volunteers, and the Bloomathon group had 10 volunteers who removed litter on the Miller Avenue median from Tamalpais High School to the Mill Valley Lumber Yard. The Mill Valley Streamkeepers cleaned up the Park Terrace area along the creek and the Mill Valley Chamber of Commerce organized a downtown cleaning group that swept streets, picked up litter, and weeded.</li> </ol>
<p><b>City of Novato</b></p>	<ol style="list-style-type: none"> <li>1. Annual creek inspections are conducted in July and August. The City successfully utilized the Conservation Corps North Bay (CCNB) to pick up trash and manage vegetation. CCNB picked up approximately 5 cubic yards of trash and furniture in Pacheco Creek.</li> <li>2. In addition, Novato uses local volunteers for trash pick-up in local creeks, and also uses volunteers for Novato Clean and Green Day in April (Earth Day).</li> </ol>



**Attachment 1: Trash and Debris Removal in Marin County in 2012-2013**

<b>Municipality</b>	<b>Activity</b>
<b>Town of Ross</b>	<ol style="list-style-type: none"> <li>1. Staff initiated a program with the Ross School, a K-8 school in Ross, to educate students about cleaning creeks, beaches, the watershed, storm drains, and about protecting creeks and wetlands.</li> <li>2. In October 2012, the Superintendent of Public Works took two 7th grade classes on a local creek walk and taught the kids about the stormwater program and creek stewardship.</li> <li>3. On March 12, 2013, the Superintendent of Public Works and staff worked with 4th and 8th graders to pick up litter and remove invasive species on a small creek behind Ross School.</li> <li>4. On March 19, 2013, the Superintendent of Public Works and staff worked with the same classes to do more invasive plant removal and plant willow cuttings. The Town is working with an adjacent neighbor to water and establish the willows.</li> </ol>
<b>Town of San Anselmo</b>	<ol style="list-style-type: none"> <li>1. Staff member Gerhard Epke is an active board member of Friends of Corte Madera Creek Watershed; he volunteered as coordinator for Coastal Cleanup Day at Larkspur Landing.</li> <li>2. During routine maintenance, the Town staff and Conservation Corps North Bay crews remove trash from the creek.</li> </ol>
<b>City of San Rafael</b>	<ol style="list-style-type: none"> <li>1. San Rafael conducts monthly cleanup projects with volunteers through the Parks Division on at least one Saturday each month from March-October (except July) and conducts litter cleanup near creeks and the Bay.</li> <li>2. San Rafael implemented two creek maintenance projects with Boy Scouts, the Center for Volunteer and Non-Profit Leadership Flex program, and others for invasive plant removal. Trash and invasive species (e.g., broom, acacia, fennel, sweet pea) were removed from Mahon Creek, and trash was removed from Gallinas Creek.</li> <li>3. San Rafael partnered with Gallinas Creek Watershed, MCSTOPPP, Marin County Parks and others to remove invasive species and litter for Earth Day, Cesar Chavez Day, Coastal Cleanup Day, Make a Difference Day and others. Each event involved coordination of dozens of volunteers. Overall, a few hundred volunteers participated in these and other Parks volunteer days this past year.</li> </ol>
<b>City of Sausalito</b>	<ol style="list-style-type: none"> <li>1. The Sausalito Parks and Recreation Department supports events organized in the city for Earth Day.</li> <li>2. The City performed a waste characterization study, and the Sausalito Sustainability Commission prepared recommendations for further action.</li> <li>3. Sausalito collaborated with the Friends of Willow Creek for the Willow Creek Cleanup Event.</li> </ol>
<b>Town of Tiburon</b>	<ol style="list-style-type: none"> <li>1. Tiburon Public Works staff assisted with litter and trash pick-up on Coastal Cleanup Day and Earth Day.</li> <li>2. The Town Installed trash receptacles at all Open Space trailheads.</li> </ol>