



Ventura Countywide Stormwater Quality Management Program

August 5, 2014

Participating Agencies

Camarillo

County of Ventura

Fillmore

Moorpark

Ojai

Oxnard

Port Hueneme

San Buenaventura

Santa Paula

Simi Valley

Thousand Oaks

Ventura County
Watershed Protection
District

Attn: Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento CA 95814
commentletters@waterboards.ca.gov.

Subject: COMMENT LETTER TRASH AMENDMENTS

Dear Ms. Townsend:

The Ventura Countywide Stormwater Quality Management Program (Program) appreciates the opportunity to review and provide comments on the Proposed Amendments to Statewide Water Quality Control Plans to Control Trash (June 2014). The Program includes the cities of Camarillo, Fillmore, Moorpark, Ojai, Oxnard, Port Hueneme, Ventura, Santa Paula, Simi Valley, Thousand Oaks, the County of Ventura (County), and the Ventura County Watershed Protection District (District) who are under a Municipal Separate Storm Sewer System (MS4) Permit issued by the Los Angeles Regional Water Quality Control Board (Regional Water Board). The Permit requires us to implement a number of trash control-related provisions and comply with two Total Maximum Daily Loads (TMDL) to address Trash impairments, specifically Ventura River Estuary (Resolution No. 2007-008) and Revolon Slough/Beardsley Wash (Resolution No. 2007-007). In addition, City of Thousand Oaks, the County, and the District are currently implementing requirements of the Malibu Creek Trash TMDL (Resolution No. 2008-007).

The Program appreciates State Water Resources Control Board's efforts to ensure consistency in trash regulations throughout the State. The intent of this letter is to express our support for the comments of the California Stormwater Quality Association (CASQA) and Calleguas Creek Watershed Stakeholders. In particular, based on our experience implementing requirements of three trash TMDLs, we strongly support the use of the narrative water quality objective as proposed, which provides a clear, concise definition from which the Municipalities can prioritize management decisions. We also believe that providing flexibility in establishing monitoring and effectiveness evaluation programs under Track 2 will result in more effective and efficient implementation of the Proposed Trash Amendments.



While the Program is supportive of the approach to the Proposed Trash Amendments, we however, have the following comments:

1. 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 and Chapter II.C of the ISWEBE Plan and Ocean Plan, respectively, and a prohibition of trash discharge in Chapter IV.B.2 and Chapter III.I.6 of the ISWEBE Plan and Ocean Plan, respectively. 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 and Chapter III.I.6.a, of the ISWEBE Plan and Ocean Plan), respectively. 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).

Recommendation: The Program 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.

2. Regional Board's Ability to Include Permit Provisions in Areas with Existing Trash TMDLs

The Proposed Trash Amendments require permitting authorities to re-open, re-issue, or newly adopt NPDES permits to include requirements consistent with the Proposed Trash Amendments (Chapter IV.B.5 and Chapter III.L.4 of the ISWEBE Plan and the Ocean Plan, respectively). The Proposed Trash Amendments also include a requirement for the Los Angeles Regional Water Quality Control Board to convene a public meeting to reconsider the scope of the TMDLs¹ to include provisions consistent with the Proposed Trash Amendments (Chapter IV.B.1.b.(2) and Chapter III.L.1.b.(2) of the ISWEBE Plan and the Ocean Plan, respectively). However, by the time the Proposed Trash Amendments become effective, and the Los Angeles Regional Water Quality Control Board modifies the TMDL(s), it will likely be too late to meaningfully impact the implementation of compliance measures for point source-responsible permittees subject to the TMDL(s). As a result, having a mechanism to streamline incorporation of permit requirements consistent with the Proposed Trash Amendments in lieu of TMDL requirements, if requested by the permittees, should be included.

Recommendation: The Los Angeles Regional Water Quality Control Board should be allowed to include permit provisions consistent with the Proposed Trash Amendments

¹ This is required for all Trash TMDLs within the jurisdiction of the Los Angeles Regional Water Quality Control Board except for the Los Angeles River Trash TMDL and the Ballona Creek Trash TMDL.

in areas where TMDLs exist if they desire without needing to reconsider the applicable TMDL(s).

3. Priority Land Use Designation

The Ventura MS4 Permit required permittees to develop a prioritization scheme for implementation of trash controls. The Trash Amendments should recognize and allow for established prioritization schemes to be utilized in lieu of the proposed scheme if they have already been approved by the Regional Water Board or required in a permit without the need to provide additional documentation. While Part (6) of the Priority Land Uses definition from the ISWEBE Plan and the Ocean Plan allows permittees to issue a request to the Los Angeles Regional Water Quality Control Board to comply with Chapter IV.B.3.a.1 and Chapter III.J.2.a.1 of the ISWEBE Plan and the Ocean Plan, respectively, using alternate land uses equivalent to the defined Priority Land Uses. However, the permittees are required to provide documentation as to the equivalency of the alternate land uses.

It would be more efficient to allow the permittees to address the previously identified land uses (approved by Regional Water Board) without having to go through an additional, duplicative documentation procedure. Additionally, while the Proposed Trash Amendments provide flexibility for the permitting authorities to designate additional priority areas, it does not appear to allow for responsible agencies to lower the priority in certain areas. Local knowledge, supported by data, should suffice as justification for jurisdictions to designate appropriate drainage areas as "non-priority" regardless of land use.

Recommendation: 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. If a regulated MS4 has a Regional Water Board-approved or permit-required prioritization scheme that differs from the priority land uses outlined in the amendment,, the approved prioritization scheme can be utilized in lieu of the priority land uses to comply with the Trash Amendments. Additionally, 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 a 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).

4. Equivalent Alternate Land Uses

Part (6) of the Priority Land Uses definition from the ISWEBE Plan allows permittees to issue a request to the Los Angeles 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. 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

Recommendations:

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

5. Track 2 Performance Demonstration

Demonstration of performance under Track 2 should not be limited to monitoring BMP performance (e.g., counting, weighing, measuring volume) as demonstrating effectiveness of trash BMPs. The monitoring 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, funded by a Proposition 84 grant, may provide additional tools for permittees to incorporate into their plans in the future. (The project is expected to be completed in 2017.)

The Program objects to the requirement for stormwater permittees to conduct receiving water monitoring. Based on our Trash TMDL implementation experience, 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.

Recommendations:

- 1) The Program 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.
- 2) The Program recommends the State Water Board remove "s receiving waters" from Chapter IV.B.7.b. (5) of the ISWEBE Plan and the Ocean Plan to read: "Has

the amount of Trash in the MS4 decreased from the previous year? If not, explain why".

6. 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 Quality Control Board would remain certified for use by permittees as a compliance method (Chapter IV.B.1.b. (1) and Chapter III.L.1.b.(2) of the ISWEBE Plan and Ocean Plan), respectively. Full-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 cost 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.

Additionally, the time frame 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.

Recommendations:

- 1) The Program recommends that a more extensive list of certified devices be prepared prior to the adoption of the Proposed Trash Amendments.
- 2) The Program also recommends refining the full-capture device certification process to streamline the certification process as much as possible.

7. Existing Trash Control Measures

The Program 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 Program recommends including language in the Proposed Trash Amendments to clarify that existing trash controls can be considered when determining compliance with the Trash Amendments.

8. Trash Total Maximum Daily Load Development

It appears that the Proposed Trash Amendments will serve as an alternative to a Total Maximum Daily Load (TMDL), thereby preventing the need to develop trash TMDLs in the future. 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.

Recommendations:

- 1) The Program recommends the State Board add additional language to clarify the intent of the Proposed Trash Amendments with respect to the development of future TMDLs.
- 2) The Program recommends adding language to 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 met.

As funding has been an ongoing challenge, we are looking forward to the State Board's assistance with the development of funding sources for Permittees to comply with the Trash Amendments.

Thank you for your time and consideration of these comments. If you have any questions regarding these comments, please contact Ewelina Mutkowska at (805) 645-1382 or Anita Kuhlman at (805) 383-5659.

Sincerely,



Gerhardt J. Hubner
Chair, Ventura Countywide Stormwater Quality Program

C: Ventura County Stormwater Quality Management Committee