

**APPENDIX F: RESPONSE TO PUBLIC COMMENTS ON THE DRAFT STAFF REPORT, INCLUDING THE DRAFT SUBSTITUTE ENVIRONMENTAL DOCUMENTATION AND DRAFT TRASH AMENDMENTS**

Comment Letter	Commenter(s)	Submitted by
<b>Comment Letters Submitted by the August 5, 2014 Comment Deadline</b>		
1	American Chemistry Council	<a href="#">Tim Shestek</a>
2	<p>American Cleaning Institute            Association of Postconsumer Plastic Recyclers            Biodegradable Products Institute            Building Owners and Managers Association of California            California Business Properties Association            California Chamber of Commerce            California Manufacturing Technology Association            California Restaurants Association            California Retailers Association            Consumer Specialty Products Association            International Council of Shopping Centers            Los Angeles Area Chamber of Commerce            Los Angeles County Business Federation            NAIOP of California, the Commercial Real Estate Development Association            National Federation of Independent Business            NatureWorks            Pactiv            SPI, the Plastics Industry Trade Association            Valley Industry &amp; Commerce Association            Western Plastics Association</p>	<a href="#">Cliff Moriyama</a>

3	Association of Compost Producers	<a href="#">Dan Noble</a>
4	Bay Area Stormwater Management Agencies Association	<a href="#">Matt Fabry</a> <a href="#">James Scanlin</a> <a href="#">Tom Dalziel</a> <a href="#">Kevin Cullen</a> <a href="#">Terri Fashing</a> <a href="#">Jamison Crosby</a> <a href="#">Adam Olivieri</a> <a href="#">Pat Gothard</a> <a href="#">Lance Barnett</a>
5	California Building Industry Association	<a href="#">Richard Lyon</a>
6	California Coastkeeper Alliance Heal the Bay 7th Generation Advisors Clean Water Action Algalita Natural Resources Defense Council The Surfrider Foundation Sierra Club California Team marine Turtle Island Restoration Network Environment California WeTap Planning and Conservation League Endangered Habitats League Coastal Environmental Rights Foundation Azul California Sportfishing Protection Alliance The Lake Merritt Institute	<a href="#">Sean Bothwell</a> <a href="#">Kirsten James</a> <a href="#">Leslie Tamminen</a> <a href="#">Miriam Gordon</a> <a href="#">Marieta Francis</a> <a href="#">Karen Garrison</a> <a href="#">Angela Howe</a> <a href="#">Annie Pham</a> <a href="#">Benjamin Kay</a> <a href="#">Todd Steiner</a> <a href="#">Nathan Weaver</a> <a href="#">Evelyn Wendel</a> <a href="#">Rebecca Crebbin-Coates</a> <a href="#">Dan Silver</a> <a href="#">Livia Borak</a> <a href="#">Marce Gutierrez</a> <a href="#">Bill Jennings</a>

	<p>The Center for Oceanic Awareness, Research, and Education  WILDCOAST  Friends of Harbors, Beaches, and Parks  Klamath-Siskiyou Wildlife Center  Russian River Watershed Protection Committee  Plastic Pollution Coalition  Earth Law Center  CLEAN South Bay  California Coastal Protection Network  Californians Against Waste  Center for Biological Diversity  5 Gyres  Coast Action Group</p>	<p><a href="#">Dr. Richard Bailey</a>  <a href="#">Christopher Chin</a>  <a href="#">Zach Plopper</a>  <a href="#">Jean Watt</a>  <a href="#">Joseph Vaile</a>  <a href="#">Brenda Adelman</a>  <a href="#">Dianna Cohen</a>  <a href="#">Linda Sheehan</a>  <a href="#">Trish Mulvey</a>  <a href="#">Susan Jordan</a>  <a href="#">Sue Vang</a>  <a href="#">Emily Jeffers</a>  <a href="#">Stiv Wilson</a>  <a href="#">Alan Levine</a></p>
7	California Coastkeeper Alliance	<a href="#">Sean Bothwell</a>
8	California Department of Transportation	<a href="#">G. Scott McGowen</a>
9	California Restaurant Association California Retailers Association	<a href="#">Kara Bush</a> <a href="#">Mandy Lee</a>
10	California Stormwater Quality Association	<a href="#">Gerhardt Hubner</a>
11	Calleguas Creek Watershed Stakeholders	<a href="#">Lucia McGovern</a>
12	Cities of Alhambra, Bell Gardens, Burbank, Calabasas, Commerce, Downey, Glendale, La Canada Flintridge, Monrovia, Monterey Park, Paramount, Pico Rivera, Signal Hill, South Gate, South Pasadena, and Vernon	<a href="#">Steve Myrter</a>
13	City of Burbank	<a href="#">Daniel Rynn</a>

14	City of Camarillo	<a href="#">Bruce Feng</a>
15	City of Capitola	<a href="#">Steven Jesberg</a>
16	City of Chula Vista	<a href="#">Khosro Aminpour</a>
17	City of Cupertino	<a href="#">Timm Borden</a>
18	City of Del Mar	<a href="#">Mikhail Ogawa</a>
19	City of Encinitas	<a href="#">Glenn Pruim</a>
20	City of Escondido	<a href="#">Edward Domingue</a>
21	City of Folsom	<a href="#">David Miller</a>
22	City of Irvine	<a href="#">Eric Tolles</a>
23	City of La Mesa	<a href="#">Brian Philbin</a>
24	City of Lodi	<a href="#">F. Wally Sandelin</a>
25	City of National City	<a href="#">Stephen Manganiello</a>
26	City of Orange	<a href="#">John Sibley</a>
27	City of Palo Alto	<a href="#">Ken Torke</a>
28	City of Roseville	<a href="#">Susan Rohan</a>
29	City of Sacramento	<a href="#">Sherill Huun</a>
30	City of San Diego, Transportation & Storm Water Department	<a href="#">Drew Kleis</a>

31	City of San Jose	<a href="#">Napp Fukuda</a>
32	City of Santa Clarita	<a href="#">Heather Merenda</a>
33	City of Santa Maria	<a href="#">Richard Sweet</a>
34	City of Santa Rosa	<a href="#">David Guhin</a>
35	City of Santee	<a href="#">Pedro Orso-Delgado</a>
36	City of Signal Hill	<a href="#">Kenneth Farfsing</a>
37	City of South Lake Tahoe	<a href="#">Ray Jarvis</a>
38	City of Stockton County of San Joaquin	<a href="#">C. Mel Lytle</a> <a href="#">Gerardo Dominguez</a>
39	City of Sunnyvale	<a href="#">John Stufflebean</a>
40	City of Walnut Creek	<a href="#">Heather Ballenger</a>
41	Construction Industry Coalition on Water Quality	<a href="#">Mark Grey</a>
42	Contech Engineered Solutions	<a href="#">Vaikko Allen II</a>
43	County of El Dorado	<a href="#">Brendan Ferry</a>
44	County of Orange and the Orange County Flood Control District	<a href="#">Chris Crompton</a>
45	County of San Diego	<a href="#">Cid Tesoro</a>
46	County of Santa Barbara Public Works Department	<a href="#">Joy Hufschmid</a>

47	County of Yuba	<a href="#">Michael Lee</a>
48	Dart Container Corporation of California	<a href="#">Jonathan Choi</a>
49	Downey Brand Attorneys LLP on behalf of the Port of Stockton	<a href="#">Melissa Thorme</a>
50	General Public	<a href="#">Dana Booth</a>
51	General Public	<a href="#">Janet Cox</a>
52	General Public	<a href="#">Joyce Dillard</a>
53	Marin County Stormwater Pollution Prevention Program on behalf of its local government member agencies: Belvedere, Corte Madera, County of Marin, Fairfax, Larkspur, Mill Valley, Novato, Ross, San Anselmo, San Rafael, Sausalito, and Tiburon	<a href="#">Terri Fashing</a>
54	Merced County	<a href="#">Dana Hertfelder</a>
55	Napa County Flood Control and Water Conservation District	<a href="#">Philip Miller</a>
56	Partnership for Sound Science in Environmental Policy	<a href="#">Craig Johns</a>
57	Riverside County Flood Control and Water Conservation District	<a href="#">Jason Uhley</a>
58	Roscoe Moss Company	<a href="#">Kevin McGillicuddy</a>
59	Sacramento Stormwater Quality Partnership	<a href="#">Dana Booth</a>

60	San Diego Unified Port District	<a href="#"><u>Jason Giffen</u></a>
61	San Francisco Bay Area Rapid Transit District	<a href="#"><u>Gary Jensen</u></a>
62	San Luis Obispo County Department of Public Works	<a href="#"><u>Mark Hutchinson</u></a>
63	Santa Clara Valley Urban Runoff Pollution Prevention Program	<a href="#"><u>Adam Olivieri</u></a>
64	Save the Bay	<a href="#"><u>David Lewis</u></a>
65	Save The Plastic Bag Coalition	<a href="#"><u>Stephen Joseph</u></a>
66	Solano County Department of Resource Management	<a href="#"><u>Nathan Newell</u></a>
67	SPI, The Plastics Industry Trade Association	<a href="#"><u>Jane Adams</u></a>
68	Statewide Stormwater Coalition	<a href="#"><u>Susan Rohan</u></a> <a href="#"><u>Tricia Wotan</u></a> <a href="#"><u>Paul Saini</u></a> <a href="#"><u>David Mohlenbrok</u></a> <a href="#"><u>Jason Rhine</u></a> <a href="#"><u>Robert Ketley</u></a> <a href="#"><u>Greg Meyer</u></a> <a href="#"><u>Staci Heaton</u></a> <a href="#"><u>Edward Kreins</u></a> <a href="#"><u>John Presleigh</u></a> <a href="#"><u>Ken Grehm</u></a> <a href="#"><u>Maria Hurtado</u></a> <a href="#"><u>Mark Hutchinson</u></a> <a href="#"><u>Stephen Schwabauer</u></a>

69	StopWaste	<a href="#">Debra Kaufman</a>
70	Surfrider Foundation	<a href="#">Angela Howe</a>
71	Surfrider Foundation Individual Members (This comment letter is a copy of the same form letter or of similar text that the SWRCB received from other individuals that totaled approx. ~1041)	<a href="#">Sarah Spinuzzi</a>
72	Union Pacific Railroad	<a href="#">Liisa Stark</a>
73	United States Environmental Protection Agency, Region 9	<a href="#">John Kemmerer</a>
74	University of California	<a href="#">Robert Charbonneau</a>
75	Ventura Countywide Stormwater Quality Management Program	<a href="#">Gerhardt Hubner</a>
76	Water Resources Management	<a href="#">Roger James</a>
Comment Letters Submitted after the August 5, 2014 Comment Deadline		
77	California Coastal Commission	Charles Lester
78	California Department of Transportation – Letter Dated November 7, 2014 letter from G. Scott McGowen to Diana Messina	G. Scott McGowen
79	Contra Costa Clean Water Program	Beth A. Baldwin



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<p>1 General Response</p>	<p>The American Chemistry Council's letter includes a number of reasons why they oppose "regulatory source controls," or specifically, product bans. These objections include generally include the following:</p> <ul style="list-style-type: none"> <li>• Regulatory source controls will result in a defacto statewide ban on bags and food containers.</li> <li>• Economic impact of product bans is significant and should be evaluated.</li> <li>• Product bans are ineffective.</li> <li>• Other controls should be incentivized over product bans.</li> <li>• The State Water Board lacks authority to implement product bans through MS4 permits.</li> <li>• Neither the Clean Water Act, nor related guidance documents authorize product bans.</li> <li>• Product bans are unconstitutional.</li> </ul>		<p>Regulatory source control was included in the proposed amendment as one of several treatment controls that could be utilized by MS4 permittees with regulatory control over priority land uses to comply with the prohibition of trash under Track 2. However, subsequent to the State Water Board's public workshop and the public hearing on the proposed Trash Amendments, Senate Bill (SB) 270 (2014 Stats. Ch. 850) was enacted. That new law enacts a state-wide plastic bag carry-out ban pertaining to grocery stores and pharmacies that have a specified amount of sales in dollars or retail floor space, which goes into effect July 1, 2015, and imposes the same ban on convenience stores and liquor stores a year later. (See Final Staff Report, at Section 6.17 (discussing Regulatory Source Controls and the enactment of SB 270).) Subsequent to the enactment of SB 270, opponents qualified a referendum on the law, delaying its July 1, 2015 effective date until the November 2016 elections, which would require a majority of votes for the referendum to succeed.</p> <p>As discussed in greater detail in the Final Staff Report (at Section 6.17) the new law will implement the product single-use plastic bag ban, which was generally the type of regulatory source control contemplated by the State Water Board and discussed with the public with regard to consideration of the time extension option. (See Final Staff Report at Section 6.15 (discussing the time extension issue).)</p> <p>Single use plastic bag bans are not anticipated to be enacted as ordinances in response to the Trash Amendments because (1) Senate Bill 270 has already enacted a mandatory statewide single use plastic bag ban, (2) the upcoming referendum on Senate Bill 270 won't succeed without a statewide majority vote, and (3) approximately 140 cities and counties have already adopted similar bans, which reflects a significant level of popular support for such bans. If, however, a permittee were to adopt a single use plastic bag ban or other ban as a means of complying with Track 2, it is expected that any such bans</p>

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			<p>would be enacted in a manner similar to those previously adopted, in that they would not result in product substitutions or any significant environmental impacts. As with previously-adopted bans, the impacts of any new bans would be evaluated by the permittee. The courts have already upheld the use of negative declarations or categorical exemptions from CEQA for single use plastic bag bans. As a result, this Final Staff Report does not provide an environmental analysis of a ban on single use plastic bags.</p> <p>As a result of the above-noted revisions to the Trash Amendments, many of the objections contained in the American Chemistry Council letter (as summarized in Comment 1 and all relating to product bans as a method to comply with Track 2 and the time extension) are no longer applicable to the proposed final Trash Amendments. Therefore, the State Water Board will not respond further to commenter's arguments in support of such objections.</p>
1.1	<p>Authorizing and incentivizing product bans or other regulatory source controls as a means to comply with the State's water quality control plan is arbitrary, capricious, and unsupported by the record because product bans are ineffective in reducing trash loads.</p>		<p>Regulatory source controls, including product bans, and the contemplated time extensions allowed for implementation of regulatory source controls, have been omitted from the final proposed Trash Amendments. See the General Response to Comment 1.</p> <p>However, the Trash Amendments are focused on effective methods to reduce the discharge of trash to receiving water bodies. Specifically, the monitoring and reporting requirements for Track 2 direct that monitoring plans demonstrate the effectiveness of controls and compliance with full capture system equivalency. (Ocean Plan Amendment III.L.4.b; Part I ISWBE IV.A.5.b.) Full capture system equivalency is the trash load that would be reduced if Track 1 was implemented. (Ocean Plan Amendment and Part I ISWBE, Definition, "Full capture system equivalency.") Thus, the Trash Amendments are clear and support that the treatment and institutional controls that are used by a permittee to comply with the prohibition of discharge for trash are effective at reducing trash</p>

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1.2	<p>Authorizing and incentivizing municipalities to ban useful products as part of an MS4 NPDES permit would violate the Clean Water Act and is not authorized under its provisions. NPDES permit conditions must have a direct nexus to the discharge of a pollutant. By contrast, product bans are ordinances that would regulate the upstream sale or distribution of a useful product that is used for its lawful, intended purpose. Congress did not expressly authorize product bans under the MS4 provisions, and it is unreasonable to infer that Congress implicitly authorized environmental agencies to use the CWA to regulate broad swaths of the U.S. economy in the name of pollution control far upstream from any potential discharges.</p>		<p>loads to receiving water bodies.</p> <p>Regulatory source controls, including product bans, and the contemplated time extensions allowed for implementation of regulatory source controls, have been omitted from the final proposed Trash Amendments. See the General Response to Comment 1.</p> <p>Additionally, the State Water Board is not authorizing municipalities to undertake any action they are not already authorized to take. Further, while Congress clearly did not expressly authorize product bans under the MS4 provisions, with Clean Water Act 402, subsection (p), Congress expressly authorized the State to require controls in permits for discharges associated with MS4 to reduce the discharge of pollutants to the maximum extent practicable, including but not limited to management practices, control techniques, and any other provisions the State determines appropriate for the control of such pollutants. The MS4 permittee has the discretion to elect whether, and what extent, it will establish full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls within its jurisdiction to comply with the prohibition of trash and the provisions of the Trash Amendments (Ocean Plan Amendment at III.L.2.a; Part I ISWEBE at IV.A.3.a).</p>
1.3	<p>The Proposed Amendments lack consideration of economic impacts and violate the California Environmental Quality Act. The Draft Staff Report and Proposed Amendments make clear that bans on plastic bags and polystyrene foam food containers will frequently be included in MS4 permits.</p>		<p>See General Response to Comment 1.</p> <p>“Regulatory source controls” was included in the proposed Trash Amendments as one of the several treatment controls that could be utilized by MS4 permittees with regulatory authority over priority land uses to comply with the prohibition of trash under Track 2. “Regulatory source controls” have been removed from the Trash Amendments.</p> <p>Similar to the prior draft, however, the proposed Final Staff</p>

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	<p>However, the SED does not include product bans as a reasonably foreseeable compliance option and, therefore, does not evaluate their environmental impacts or those of alternative approaches. This error is not harmless, as substitute products such as paper bags and bio-plastics have very significant environmental impacts.</p>		<p>Report retains “institutional controls” as a permissible method an MS4 permittee could employ to comply with Track 2. The proposed final Trash Amendments’ definition for “institutional controls” includes “ordinances”:</p> <p style="padding-left: 40px;">Institutional controls are non-structural best management practices (i.e., no structures are involved) that may include, but not be limited to, street sweeping, sidewalk trash bins, collection of the trash, anti-litter educational and outreach programs, producer take-back for packaging, and ordinances.</p> <p>Pursuant to that definition, a permittee’s enactment of an ordinance remains an allowable type of institutional control which may be implemented to comply with Track 2, even though the proposed final Trash Amendments removed “regulatory source controls” as a permissible method. Yet, any such ordinance likely would not involve a product ban, particularly those involving substitution of product. Contrary to ordinances or laws which prohibit distribution of plastic carry-out bags, which are typically accompanied with requirements and/or incentives to utilize reusable bags to avoid a product-substitution effect (such as SB 270), other types of product bans enacted by ordinance may not result in reduced trash generation if such product substitution would be discarded in the same manner as the banned item. Any such product ban would not reduce trash and would not be an allowable Track 2 compliance method. (See Final Staff Report at Section 5.0, 5.2.5, and 6.17; see also Final Staff Report at App. A-18 to A-20 (“Current Efforts to Address Concerns Related to Trash in California Waters”).)</p> <p>Therefore, the proposed Final Staff Report does not provide an environmental or economic analysis of ordinances banning products because such bans are not a reasonably foreseeable method with which a permittee could comply with the trash prohibition. It is possible that an MS4 permittee’s adoption of other types of ordinances (e.g., anti-litter laws or bans on</p>

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1.4	<p>By attempting to use the regulatory source control option to single out plastic and polystyrene products for local bans under the regulatory source control the proposal raises several constitutional concerns. The proposal would violate the dormant Commerce Clause by placing a significant economic burden on interstate commerce without providing any local benefit at all. The proposal would also violate the Equal Protection clause because there is no rational basis for singling out plastic bags and polystyrene foam food containers for bans when those bans would be ineffective. Finally, by failing to provide any standard to distinguish between effective and ineffective regulatory source controls, the Proposed Amendments violate the Due Process Clause and are void for vagueness. The Board offers no guidance to permit writers on how to distinguish between potentially effective ordinances that could</p>		<p>smoking), may still be a reasonably foreseeable method of compliance, but those types of ordinances are not expected to cause potential environmental impacts through use of replacement products or through other indirect impacts.</p> <p>The other types of institutional controls (e.g., street sweeping, sidewalk trash bins, collection of the trash, etc.) available for a permittee to comply with the trash prohibition under Track 2 are evaluated in Section 5.2 and in Section 6 of the proposed final Staff Report.</p> <p>See the General Response to Comment 1 and Responses to Comments 1.2 and 1.3. Based on the revisions and discussions noted therein, commenter's underlying arguments are not applicable to the Trash Amendments which will be considered for adoption by the Board.</p> <p>Even if the Trash Amendment included regulatory source control or product bans as a permissible method to comply with Track 2, however, and SB 270 was not in effect, such proposal does not raise objections pursuant to equal protection, due process, and (dormant) commerce clauses of the United States Constitution. First, to be clear, the State Water Board would not be establishing such ban by ordinance, a permittee would be enacting it pursuant its applicable authority to do so. Second, the State Water Board's Trash Amendments are authorized by federal law and state law. Any proposal that would qualify under Track 2 an MS4's enactment of a product ban would not treat similarly situated persons or entities differently but would be controlling trash and, therefore, does not raise equal protection concerns. Such a ban would have a rational purpose of controlling trash to comply under Track 2. At this time, however, and as discussed in the General Response and Response to Comment 1.3, the State Water Board does not reasonably foresee an MS4's establishment of a product ban as an ordinance that control trash under Track 2.</p>

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	<p>theoretically be included in a NPDES permit and those that are ineffective and should be excluded from the program.</p>		<p>The dormant commerce clause of the United States Constitution is implicated where a state law discriminates against interstate commerce in favor of intra-state commerce (i.e., an implied substantive restriction on permissible state regulation of interstate commerce). No violation of the dormant commerce clause exists where the state law treats out-of-state commerce the same as in-state-commerce. If a permittee were to adopt an ordinance to ban a product, that ordinance would apply whether the manufacturer was located in-state or out-of-state.</p> <p>Due process of law is violated where a statute, regulation, or ordinance prohibits or requires the doing of an act which is so vague that a person must guess as its meaning. The Trash Amendments neither compel nor forbid an MS4 to establish specific trash treatment controls.</p> <p>“Regulatory source controls” was included in the proposed Trash Amendments as one of the several treatment controls that could be utilized by MS4 permittees with regulatory authority over priority land uses to comply with the prohibition of trash under Track 2. “Regulatory source controls” have been removed from the Trash Amendments. Therefore, permit writers would not be making the determination of the effectiveness of a “regulatory source controls” for Track 2. Excluding regulatory source controls, any combination of treatment and institutional controls that are used to implement Track 2, permittees must demonstrate that the combination of the controls achieve full capture system equivalency. (See Ocean Plan Amendments III.L.2.a.2; Part I ISWEBE Plan IV.A.3.a.2; Definition of “full capture system equivalency.”) Thus the combination of controls that are implemented must reduce the discharge of trash to the same load that would be reduced if full capture systems were installed, operated, and maintained for all storm drains that capture runoff from priority land uses. Full capture system equivalency must be demonstrated through the monitoring plans. (See Ocean Plan Amendments III.L.5.b; Part I ISWEBE Plan IV.A.6.b.)</p>

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2.1	<p>The Trash Amendments are aimed to reduce trash. The Commenters fail to see how a local ordinance without any corresponding restriction on likely replacement products will lead to reduction of trash. Rewarding the adoption of local ordinance that restrict the use of a certain material type or specific type of packaging is inappropriate and legally indefensible. Full capture systems as outlined under the "Track 1" compliance option appear to offer the most effective solution in preventing all forms of trash from entering the state's waterways.</p>		<p>Additionally, see Response to Comment 6.2.</p> <p>Please see General Response to Comment Letter 1 and Comment 1.2.</p>
2.2	<p>Local Ban ordinances can have both economic and environmental impacts that should not be overlooked by the board.</p>		<p>Please see General Response to Comment Letter 1 Response and Comment 1.2.</p>
3.1	<p>Extend the "Comment Period" for a few months and develop a series of collaborative meetings so that the compost industry working with local jurisdictions, the recycling industry, CalRecycle and the Water Board can have sufficient time to understand and provide clear and compelling input into the Trash Amendments. Since it took over a year to draft these amendments in isolation from industry, communities and other state agencies, a few more months to craft a better product seems well</p>		<p>The proposed Trash Amendments have been in development since 2010 and have involved extensive stakeholder input from the multi-year efforts of the Public Advisory Group and the Focused Stakeholder Meetings in the spring of 2013. Additionally, State Water Board staff considered the comments from all stakeholders at the public workshop on July 16, 2014, public hearing on August 5, 2014, and 78 comment letters. The goal is to create Trash Amendments that lead to reduction of trash in state waters and enhances creativity and collaboration between stakeholders. (See Final Staff Report Section 2.14.)</p>

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	worth the time, to achieve a better, more acceptable result.		
3.2	Define and harmonize any of the alternative definitions related to the Trash Amendments, e.g. "trash," "waste", "litter", etc.		The definition of "trash" proposed in the Trash Amendments harmonizes the definition of "waste" from the California Water Code and the definition of "litter" from the California Government Code. Please refer to Section 4.1 the proposed Final Staff Report for additional discussion.
3.3	To date the Water Board hasn't engaged with the organics industry, nor directly with CalRecycle, on the specific crafting of these Trash Amendments. The Water Board would be well served to engage with the organics and general recycling industry directly on this issue, prior to promulgating these Trash Amendments.		The State Water Board has engaged with CalRecycle on the crafting of the Trash Amendments, and regrets that the organics industry was not part of the focused stakeholder meetings. The State Water Board is encouraged that the organics industry was able to submit a comment letter and wishes to work with the organics industry in the implementation of the Trash Amendments.
3.4	Receive input that gathers the best industry, community and state agency thinking regarding the key elements of Trash Amendment ideas on how to control trash that ends up in the water ways, emanating from residential, public, commercial, industrial and agricultural lands.		Please see response to Comment 3.1.
4.1	Consistency between Prohibition of Discharge and Water Quality Objective - In accordance with the California Water Code, the State Water Board's proposed Water Quality Objective (WQO) for trash in discharges in "amounts that adversely affect beneficial uses or cause nuisance" should be		See Response to Comment 10.9.  The Trash Amendments are structured to establish a narrative water quality objective for trash and a prohibition of discharge of trash. The narrative water quality objective would be implemented through the prohibition and conditional prohibition of discharge. In the case of BASMAA and its member agencies, implementation is through a conditional prohibition. The Trash Amendments specify that that permittees in full



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	<p>regulated. However, as drafted, the State Water Board's proposed Prohibitions of Discharges for Trash do not include language corresponding to this aspect of the WQO and could be misinterpreted to apply literally to any and all trash. This is inconsistent with the Water Code's charge that State Water Quality Control Plans and implementation requirements be economically reasonable and technically feasible and has potentially significant resource demands and adverse enforcement implications for the regulated community. Recommendation - The State Water Board should provide consistency between the WQO and prohibitions by revising the trash prohibitions to include language that qualify that the trash discharges being prohibited and controlled by the specified implementation requirements, is the trash "in amounts that cause impairment of beneficial uses or conditions of nuisance in receiving waters."</p>		<p>compliance with the trash-specific permit terms for the control of trash will then be deemed in compliance with prohibition of discharge. (Ocean Plan Amendment at III.1.6.a; Part I ISWEBE at IV.A.2.a.) The Trash Amendments do not specify that compliance with the conditional prohibition is equivalent to compliance with effluent limitations for the water quality objective for trash. The conditional prohibition includes consideration of feasibility by focusing trash on high trash generating areas and multiple compliance tracks. (Staff Report at Sections 2.3 and 2.4.1 (pp. 13-15).)</p>
4.2	<p>The State Water Board should allow all Phase I Section 402(p) permittees under the jurisdiction of the San Francisco Bay Regional Water Board to effectuate compliance with the trash prohibitions and address the WQO for trash through the trash-specific reduction requirements in the MRP and its successor</p>	<p>Track 3: For applicable MS4* permittees under the jurisdiction of the Municipal Regional Permit (MRP) issued by the San Francisco Bay Regional Water Quality Control Board, install, operate, maintain any</p>	<p>The State Water Board worked with San Francisco Bay Water Board staff to craft and ensure that Track 2 language would be compatible with existing and future San Francisco Bay Municipal Regional Stormwater Permit (MRP) conditions. (See, for example, Response to Comment 4.3.) As the trash control provisions exist in the MRP, they represent a Track 2 approach that will likely be replicated by other MS4 Phase I permittees across California, specifically with the combination of treatment and institutional controls and mapping for trash</p>

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	<p>provisions that are already under discussion. This recommendation is consistent with recommendations presented by nongovernmental organizations and other stakeholders at the State Water Board's July 16th Trash Policy Workshop, and effectively would allow applicable Bay Area permittees to continue implementation consistent with the MRP. The State Water Board should revise the amendments to provide an alternative (Track 3) to allow for compliance to be achieved via continued implementation of the trash-specific provisions in the MRP.</p>	<p>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 MRP permittees in a phased and prioritized approach that focuses on high trash generation areas that contribute Trash* to storm drains in their jurisdiction as further specified in the trash-specific provisions of the MRP and implementation plans developed by the permittees thereunder. This provision shall apply to MS4* permits that are successors to the current MRP if the San Francisco Bay Regional Water Board finds in adopting the successor permit that the trash specific provisions of such successor permits are consistent with the requirements of the</p>	<p>generation areas. The MRP time schedule and reporting requirements, specifically the Short Term and Long Term Trash Reduction Plans, should be compatible within the framework of the Trash Amendments. As such, the State Water Board does not believe a creation of a Track 3 for MRP permittees is necessary. The proposed Trash Amendments were modified to specify that MRP permittees are exempt from electing Track 1 or Track 2 as the trash control requirements are substantially equivalent to Track 2. Additionally to reduce duplicative efforts for MRP permittees, the proposed final Trash Amendments include a provision to allow the San Francisco Bay Water Board to determine if the implementation plan a MRP permittee has submitted is equivalent to the implementation plan required by the Trash Amendments. (See, for example, Ocean Plan Amendment fn. 2; Part I ISWEBE fn. 2.) Finally, the final compliance date is being revised in recognition of the intensive efforts taken by the MRP permittees since 2009. (Ocean Plan Amendment at fn. 2; Part I ISWEBE at fn. 2.)</p>

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4.3	<p>Immediately grandfather into the certification process those devices previously "approved" by San Francisco Bay Regional Water Board staff as full capture systems that are installed or in the process of being installed in the Bay Area prior to adoption of the amendments, or immediately certify all devices "approved" by San Francisco Bay Regional Water Board staff. Additionally, revise the amendments to indicate that any treatment device that meets the stated criteria fulfills the certification requirement, regardless of whether a device has or has not been certified by the State Water Board.</p>	<p>Trash* Prohibition implementations set forth herein, including the time schedules set forth in Sections 4[or 5].a.(3) and (4) and Section 5 [or 6] below and appropriate monitoring and reporting provisions.</p>	<p>The State Water Board agrees that full capture systems previously "approved" by the San Francisco Bay Water Board staff should fulfill the certification requirement of a full capture system in the Trash Amendments. It is not the intent for installed and properly operating full capture systems to be removed as a result of the Trash Amendments. Resources should be efficiently directed towards effective treatment controls to capture and remove trash. The proposed final Trash Amendments language for the definition of "full capture system" has been modified to specify that "full capture systems listed in Appendix I of the Bay Area-wide Trash Capture Demonstration Project, Final Project Report (May 8, 2014)" prior to the effective date of the Trash Amendments, will satisfy the requirement of the Trash Amendments. These full capture systems can be found at: <a href="http://www.sfestuary.org/wp-content/uploads/2014/05/AppendixI.DevicesOffered.pdf">http://www.sfestuary.org/wp-content/uploads/2014/05/AppendixI.DevicesOffered.pdf</a></p>

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4.4	Revise the definition of “high trash generating areas” to allow permittees the option of identifying geographical areas within their municipality that generate problematic levels of trash, regardless of land use.		The proposed language already includes the flexibility the commenter is seeking. The Trash Amendments define priority land uses as land uses that are actually developed (i.e., not simply zoned) as high density residential, industrial, commercial, mixed urban, and public transportation stations. In addition, the definition of priority land uses already provides that a MS4 may request that its permitting authority approve an equivalent alternative land use (i.e., an alternative to a land use(s) listed above). The intent of “alternate equivalent land uses” is to allow MS4s to allocate trash-control resources to the developed areas that generate the highest sources of trash. (See Ocean Plan Amendment and Part I ISWEBE definition for “alternate equivalent land uses” within the “priority land uses” definition.) As “priority land uses” is defined, the “equivalent alternate land use” can be utilized in as an alternative to a priority land use. As “equivalent alternate land use” is part of the priority land use definition, the State Water Board does not think the suggested language is necessary.
4.5	The proposed trash amendments should better account for the benefit of true source control actions that local municipalities initiate or participate. Additionally, time extensions should be granted to municipalities for participating with other local governments in statewide initiatives to advocate for legislation and industry cooperation in the development of product redesign, packaging redesign, take-back programs, and deposit legislation.		Regulatory source controls have been omitted from the final proposed Trash Amendments. The development of source controls by the State Water Board as suggested by the commenter, which include but are not limited to the development of product redesign, packaging redesign, take-back programs, is outside the scope of these Trash Amendments. See also the General Response to Comment Letter 1 and response to Comment 1.2.

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4.6	<p>Continue to provide flexibility in the methods used to demonstrate Track 1 or 2 performances. Permittees should be allowed to implement cost-effective methods to demonstrate performance equivalency. Remove the requirement for submittal of GIS data to the State Water Board on trash control measure implementation. Provide guidance, outside of the amendments and in collaboration with the Proposition 84 grant funded Tracking California's Trash project managed by BASMAA, on the types and formats of GIS data that should be submitted by permittees, consistent with NPDES permits. Revise the monitoring questions to remove receiving water monitoring.</p>		<p>The monitoring and reporting provisions in the proposed Trash Amendments are minimum requirements that must be included with the implementing permits. Similar to the Track implementation provisions, as there will be many unique implementation approaches, the monitoring and reporting approach should provide flexibility to demonstrate compliance with the prohibition of discharge for trash. However, statewide consistency in monitoring and reporting needs to be provided to permitting authorities and permittees. The balance between the need for consistency and flexibility is achieved through standardized objectives in the monitoring program.</p> <p>The Trash Amendments aim to establish minimum monitoring and reporting provisions, but the Water Boards may include more extensive provisions in implementing permits. MS4 permittees complying under Track 1 would provide a report to the applicable Water Board demonstrating installation, operation, and maintenance of full capture systems on an annual basis. MS4 permittees complying under Track 2 would develop and implement annual monitoring plans to demonstrate implementation and effectiveness of trash controls and compliance with full capture system equivalency.</p> <p>Since there are a variety of existing monitoring programs and there are new programs in development, the Trash Amendments propose a set of monitoring objectives modeled after the Standard Monitoring Procedures in Appendix III of the California Ocean Plan. These objectives include location data for installed control equipment and assessments of program effectiveness such as trash removed and condition of the receiving water. Such data is essential for effective assessment and management of control programs.</p> <p>Using a questions-based approach provides flexibility to the</p>

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			<p>permit writers to select the most relevant monitoring techniques and expectations for their respective permits. Based on the comments, the proposed final Trash Amendments have been modified to make question-based approach discretionary and removed the requirement for receiving water monitoring component.</p> <p>The State Water Board supports incorporating Proposition 84 Grant funded Tracking California's Trash Project as part of the technical advisory group. Staff believes this project may provide trash monitoring guidance statewide and benefit the flexibility provided in the monitoring and reporting provisions in the proposed final Trash Amendments. (Ocean Plan Amendment at III.1.5.b; Part I ISWEBE at IV.1.6.b.)</p>
4.7	<p>Based on the economic analysis conducted by the State Water Board, Bay Area municipalities should anticipate between \$22 - \$58 million will be needed to be spent each year for the next 10 years to implement the proposed amendments.</p> <p>BASMAA recommends that the State Water Board partner with permittees to explore the creation of a non-competitive program to fund trash control measures. One such program that could serve as an example is the Used Oil Payment Program (OPP). The California Oil Recycling Enhancement Act provides funding to assist local governments in maintaining an ongoing used oil and used oil filter collection/recycling program for their</p>		<p>The State Water Board appreciates this suggestion for trash control. Creating such a non-competitive program would require legislative action to establish the fee program, which involves a bill approval process. If such a program was enacted, the State Water Board would need to manage the program and acquire legal and budgetary authority to accept and spend the fund. At the present, it is outside of the scope of the Trash Amendments for the State Water Board to create such a program. With the Storm Water Strategic Initiative, the State Water Board aims to improve program efficiency and effectiveness by providing more assistance to overcoming funding barriers.</p> <p>The State Water Board provides financial assistance through various State and federal loan and grant programs to help local agencies, businesses, and individuals meet the costs of water pollution control. The Public Resources Code requires that the Proposition 84 Storm Water Grant Program funds are used to provide matching grants to local public agencies for the reduction and prevention of storm water contamination to rivers, lakes, and streams. Please visit the following website</p>

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	<p>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.</p>		<p>for more information: <a href="http://waterboards.ca.gov/water_issues/program/grants_loans/prop84/index.shtml">http://waterboards.ca.gov/water_issues/program/grants_loans/prop84/index.shtml</a></p> <p>Additional financial assistance information including information on the Clean Water State Revolving Fund loans, is available at: <a href="http://www.waterboards.ca.gov/water_issues/programs/grants_loans/">http://www.waterboards.ca.gov/water_issues/programs/grants_loans/</a></p> <p>CalRecycle administers funding programs to assist with waste disposable, specifically reducing beverage container litter in the waste stream. Information on the Beverage Container Recycling Grants is available at: <a href="http://www.calrecycle.ca.gov/bevcontainer/grants/">http://www.calrecycle.ca.gov/bevcontainer/grants/</a></p>
5.1	<p>Track 1 is infeasible and Track 2 uncertain for construction dischargers. This kind of uncertainty in process is concerning. The current prohibition on the discharge of trash appears to be working from the perspective of our members, and additional regulation is unhelpful and may actually increase the cost to comply because of the difficulty of proving Track 2 equivalence with Track 1.</p>		<p>Currently the Construction General Permit (CGP) prohibits the discharge of any debris, which includes plastic and other trash materials. The Trash Amendments propose an outright prohibition of the discharge of trash for NPDES permits for discharges of storm water associated with industry activity (including construction). The provisions for these permits in the Ocean Plan Amendment are at III.L.2.c and in the Part I ISWEBE are at IV.A.3.c. The existing provisions in the CGP would be similar to the outright prohibition for trash. It is not the intention of the State Water Board to create additional regulations on trash for CGP permittees.</p>
5.2	<p>We have concerns about the monitoring and reporting program (described on page 17 of the Staff Report, Section 2.7), which strongly implies a level of effort required by builders and contractors significantly above and beyond what is currently</p>		<p>The Trash Amendments would require the IGP and CGP dischargers to report the measures used to comply. (See Ocean Plan Amendment III.L.5.d; Part I ISWEBE IV.A.6.d.) Currently, the CGP prohibits the discharge for any debris, which includes plastic and other trash materials. The Trash Amendments establish an outright prohibition of the discharge of trash. The existing provisions in the CGP would be similar to</p>

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	<p>required to demonstrate compliance. Furthermore, the Draft Trash Control Amendments makes conflicting statements about the necessity of specific monitoring requirements for construction dischargers, and clarification of intent by the State Water Board is requested. Specifically, see conflicting information discussed on page 17, Section 2.7 and pages 81-82 of the Staff Report, 4.10 No. 3.</p>		<p>the outright prohibition for trash. State Water Board staff does not intend to create additional regulations or monitoring for trash for CGP permittees.</p>
5.3	<p>Lack of economic analysis of the impact of the proposed Trash Amendments for construction dischargers.</p>		<p>The Economic Considerations section analyzed the potential cost for both the dischargers enrolled under the Industrial Storm Water General NPDES Permit and the CGP. As described in the introduction of the Economic Considerations (page C-7), the economic analysis provides an estimate of the compliance costs and considers the incremental costs that permitted storm water dischargers may need to incur based on the implementation provisions and time schedules proposed in the Trash Amendments. Therefore, the considerations only apply to those dischargers that would see an incremental cost in addition to existing compliance costs.</p> <p>As explained in footnote 79 of the Economic Considerations section (page C-48), dischargers enrolled under the CGP are already required to comply with a prohibition of discharge for debris and trash from construction sites (State Board Action 2009-0009-DWQ amended by 2010-0014-DWQ &amp; 2012-0006-DWQ, Prohibition III, D, page 21). Therefore, no additional or incremental costs would be necessary for construction dischargers to comply with the proposed Trash Amendments.</p>
6.1	<p>The Trash Amendments' SED acknowledges that a "numeric objective of 'zero trash' could be an efficient regulatory tool because the</p>		<p>The State Water Board acknowledges that while zero trash may be a desirable goal, it may not be feasible to achieve this numeric water quality objective. A single piece of trash found in a water body may or may not constitute a violation of a</p>



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	<p>measurement of compliance is clearly defined." However, the State Board goes on to claim that on "a feasible level, a single piece of trash found in a water body may or may not constitute impairment, and it may or may not be aesthetically unpleasing." We disagree with the State Board's conclusion, and recommend a zero water quality objective be re-evaluated. For purposes of consistency, we recommend the State Board revise the Amendments' water quality objective to state that waterways shall not contain trash..." Or, if the Board wishes to keep the existing sentence structure, we recommend: "no trash shall be present..."</p>		<p>numeric water quality objective of zero trash, and yet it may or may not be aesthetically unpleasing and may or may not be detrimental to aquatic life and wildlife beneficial uses. A narrative water quality objective, on the other hand, provides the Water Boards the ability to evaluate the amount of trash present in the waters that adversely affects or threatens beneficial uses or creates a nuisance on a site-specific basis.</p> <p>Furthermore, California Coastkeeper Alliance et al. was one of many who commented that the State Water Board should establish a water quality objective of zero trash and with reference to the Los Angeles River Watershed Trash TMDL as precedent for that recommendation. However, it is important to recognize that the Los Angeles River Watershed Trash TMDL did not establish or interpret a zero trash numeric water quality objective, but established a TMDL target that interpreted a narrative water quality objective. While useful within the context of establishing a TMDL numeric target, zero trash is not suitable for a water quality objective because it would effectively establish a prohibition of the discharge of trash. Finally, while the Los Angeles River Watershed Trash TMDL did establish a zero trash target, it then also provided non-zero waste-load allocations. The Los Angeles River Watershed Trash TMDL does include phased reductions with a state goal of achieving a wasteload allocation of zero in 9 years, but the Los Angeles River Watershed Trash TMDL also includes a couple of critical caveats. First, the TMDL includes as a footnote to Table 7.2.3 (Attachment A to resolution No. 2007-012) that states that the Los Angeles Water Board will review and reconsider the final waste load allocations once a reduction of 50% has been achieved. Second, an additional footnote to the same table notes that 'notwithstanding the zero trash target and the baseline waste allocation shown in Table 5, a permittee will be deemed in compliance with the Trash TMDL in areas served by a full capture system. For these reasons, The Los Angeles River Watershed Trash TMDL need not constrain the</p>

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			<p>Water Board's statewide development of water quality objectives, which achieves uniformity and consistency in place of the existing approximately 33 existing narrative objectives for the presence of floatable, solid, suspended materials. Refer to the Final Staff Report, Section 4.2, Issue 2, for additional information about the selection of water quality objectives.</p> <p>The State Water Board agrees for purposes of consistency with existing "floatable, suspended, and settleable water quality objectives" that the proposed statewide trash narrative water quality objective should be characterized as "trash shall not be present" rather than "shall not accumulate." The Trash Amendments have been modified from "trash shall not accumulate" to "trash shall not be present." (Ocean Plan Amendment at II.C.5; Part I ISWEBE at III.A.)</p>
6.2	<p>The State Water Board needs to provide a performance standard for Track 2 Permittees to achieve, explicit language in the Amendments requiring monitoring to be conducted for Track 2, and minimum monitoring criteria for Track 2 Permittees to follow. The Amendments require Track 2 Permittees to achieve "the same performance results as compliance under Track 1 would achieve..." To prove they are achieving the same performance results, Track 2 Permittees will be required to conduct monitoring to demonstrate they are reducing trash equivalent to that of Track 1 Permittees, but the Amendments lack specificity as to what shall be required for receiving water monitoring for Track 2. Instead, the</p>	<p>MS4* permittees that elect to comply with Chapter III.J.2.b.2. (Track 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 of (xx?). Monitoring reports shall be provided to the applicable permitting authority* on</p>	<p>Track 2 allows permittees to utilize the full range of mechanisms to control trash to achieve the same equivalent performance to Track 1. The proposed final Trash Amendments provided clarity to this performance standard Track 2 permittees shall be required to achieve by adding and defining the term "full capture system equivalency." (See Ocean Plan Amendment and Part I ISWEBE, Definitions, "Full capture system equivalency.") Full capture system equivalency is the trash load that would be reduced if full capture systems were installed, operated, and maintained for all storm drains that capture runoff from priority land uses, significant trash generating areas, or other relevant land uses. This concept of full capture system equivalency is applicable to MS4 Phase I, MS4 Phase II, Caltrans, and Industrial General Permit (IGP) permittees. Full capture system equivalency is a trash load reduction target that the permittee quantifies by using an approach subject to the approval of the permitting authority. The proposed final Trash Amendments provide two examples of approach, a Trash Capture Rate Approach and a Reference Approach. Other approaches may be suitable and may or may</p>

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	<p>Amendments only provide minimum monitoring and reporting requirements.</p> <p>We request the State Board provide an explicit performance standard in both the Amendments and the SED to help Track 2 Permittees demonstrate compliance. Alternatively, the State Board may consider requiring Track 2 Permittees to conduct a baseline analysis of all trash discharged within priority use areas, and then demonstrate a 100 percent reduction of that baseline assessment. If this is the State Board's intent, we strongly encourage the Board to provide sufficient monitoring guidance to ensure the baseline study and the annual monitoring is conducted appropriately. We recommend the State Board revise the Trash Amendments to be explicit that Track 2 Permittees are required to conduct a baseline assessment and annual receiving water monitoring to demonstrate equivalent trash reductions as Track 1.</p>	<p>an annual basis, and shall include a <u>baseline monitoring report</u>, <u>minimum receiving water monitoring criteria as set forth in the Staff Report</u>, 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.</p>	<p>not depend on establishment of a baseline trash load. Additionally, the Trash Amendments were revised to add that each NPDES permittee implementing Track 2 "shall demonstrate that such combination achieves full capture system equivalency." (Ocean Plan Amendment at III.L.2.a.2 (MS4s), III.L.2.b (Department) and III.L.2.c (Industrial); Part I ISWEBE at IV.3.a.2 (MS4s), IV.3.b (Department), and IV.3.c (Industrial).)</p> <p>Within the scope of the Trash Amendments, full capture system equivalency must be established prior to the implementation of trash controls. Within the implementation plan for Track 2, the permittee will need to: (1) describe the combination of controls selected and the rationale for the selection, (2) describe how the combination of controls will achieve full capture system equivalency, and (3) describe how full capture system equivalency will be demonstrated. The implementation plan is subject to the review and approval of the permitting authority. (Ocean Plan Amendment at III.L.4.a.1 (MS4s) and III.L.4.b.1 (Caltrans); Part I ISWEBE at IV.A.5.a.1 (MS4s) and IV.A.5.b.1 (Caltrans).) As trash controls are implemented, the focus of monitoring a program is to assess and monitor the progress towards achievement of the full capture system equivalency, and thus compliance with the prohibition of discharge.</p> <p>The Trash Amendments provide the minimum monitoring and reporting requirements that need to be incorporated into the permits. The monitoring requires the demonstration of milestone reduction, such as 10% per year, and compliance with the implementation provisions. The implementation provisions are specifically focused on 'full capture system equivalency'. The intent of monitoring is not for permittees to conduct a baseline analysis of all trash discharge. The proposed Final Trash Amendments were revised to clarify that the Track 2 monitoring plan requirement is to demonstrate "compliance with full capture equivalency" as newly defined. (Ocean Plan Amendment at III.L.5; ISWEBE Part I at IV.A.6.)</p>

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6.3	<p>If the State Board insists on a Track 2 approach to achieve a narrative water quality objective, then it is even more important that the implementing provisions are clear and unambiguous. Prioritizing full-capture devices in Track 2 will provide permittees a straightforward and clear path to compliance—leading to greater trash reductions.</p>	<p>Track 2: Install, operate, and maintain <del>any combination of</del> full capture systems* to the <u>maximum extent feasible</u>. <u>For storm drains demonstrated to be infeasible for full capture system installation, include any combination of 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</u></p>	<p>In addition, the proposed final Trash Amendments have been modified to make question-based approach discretionary and removed the requirement for receiving water monitoring component. The focus of the monitoring plans should “demonstrate the effectiveness of controls and compliance with full capture system equivalency”. (Ocean Plan Amendment at III.L.5; Part I ISWEBE at IV.A.6.) The State Water Board believes this requirement to provide both consistency for the permitting authority to develop monitoring and flexibility to determine specific questions to effectively monitor. While receiving water monitoring is a reasonable approach for trash, the specificity of the monitoring approach will be at the discretion of the permitting authority. These questions in the monitoring section should provide sufficient framework for how to demonstrate compliance and achievement of Track 2 targets. (Ocean Plan Amendment at III.L.5; Part I ISWEBE at IV.A.6.)</p>
			<p>The State Water Board declines the commenter’s recommended language because it substantially alters the intent and flexibility of Track 2. However, the State Water Board’s intent is that full capture systems would be would the primary mechanisms employed by permittees with supplemental efforts from increased institutional controls and other treatment controls from existing permit requirements. To clarify this intent, the following language has been included to Track 2: "It is, however, the State Water Board’s expectation that the MS4 permittee will elect to install full capture systems were such installation is not cost-prohibitive." (Ocean Plan Amendment at III.L.2.a.2; Part I ISWEBE at IV.A.3.a.2.) Full capture systems should be considered first; if they are determined to be not practical at a location, then other controls can be used.</p>
			<p>The function of Track 1 and Track 2 and other components of the Trash Amendments are to provide permit requirements for</p>

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6.4	<p>It is critical that the prohibition of discharge of preproduction plastics remain absolute and unwavering in order to address the problem of preproduction plastics in receiving waters, and in order to comply with existing state law. In Chapter III.I.6.d, the Amendments contain a prohibition of discharge for preproduction plastics, but this prohibition conflicts with Chapter III.L.2.c. These two sections must be reconciled and it must be clarified that the prohibition of pre-production plastic discharges is absolute, and cannot be undermined by any other section of the Amendments.</p>	<p>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 from one or more of the priority land uses* within such jurisdiction(s).</p> <p>... Termination of permit coverage the outright prohibition under Chapter III.I.6.a. for industrial and construction storm water* dischargers shall be conditioned upon the proper operation and maintenance of all controls (e.g., full capture systems*, other treatment controls*, institutional controls*, and/or multi-benefit projects*) used at their facility(ies). <u>Regardless of termination under Chapter III.I.6.a., all industrial storm water dischargers shall meet the outright prohibition for pre-production plastics under Chapter III.I.6.d.</u></p>	<p>applicable permits or orders to ensure compliance with the prohibition of discharge for trash. (Ocean Plan Amendment at III.I.6; Part I ISWEBE at IV.A.2.)</p> <p>The intention of the Trash Amendments is for the prohibition of discharge of preproduction plastic to be absolute. The proposed final Trash Amendments were modified (Ocean Plan Amendment at III.I.6.e; Part I ISWEBE at IV.A.2.e.) to acknowledge the that prohibition is absolute unless a permittee is subject to "Preproduction Plastic Debris Program" under Water Code section 13367(a) and the requirements in the IGP (Order No. 2014-0057-DWQ) because facilities subject to that permit are subject to special requirements for plastics which reduce or prevent the discharge of plastics, including but not limited to:</p> <p>Facilities covered under this General Permit that handle Plastic Materials are required to implement BMPs to eliminate discharges of plastic in storm water in addition to the other requirements of this General Permit that are applicable to all other Industrial Materials and Activities. Plastic Materials are virgin and recycled plastic resin pellets, powders, flakes, powdered additives, regrind, dust, and other similar types of preproduction plastics with the potential to discharge or migrate off-site. Any Dischargers' facility handling Plastic Materials will be referred to as Plastics Facilities in this</p>

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			<p>General Permit. Any Plastics Facility covered under this General Permit that manufactures, transports, stores, or consumes these materials shall submit information to the State Water Board in their PRDs, including the type and form of plastics, and which BMPs are implemented at the facility to prevent illicit discharges. Pursuant to Water Code section 13367, Plastics Facilities are subject to mandatory, minimum BMPs.</p> <p>(Order No. 2014-0057-DWQ, Section XVIII (p. 64); see id. at pp. 64-66) for additional and specific requirements imposed on applicable facilities/permittees.)</p> <p>Additionally, when a facility or site wants to terminate coverage from the IGP or CGP, a Notice of Termination must be submitted to the permitting authority. For the Notice of Termination to be approved by the permitting authority, a set of conditions need to be met by the permittee as outlined in the respective permit. For example, Section II.D.1.d of the CGP (2009-0009-DWQ amended by 2010-0014-DWQ &amp; 2012-0006-DWQ), states that one condition for a construction site to be considered complete is when "construction materials and waste have been disposed properly." The intent with the proposed Trash Amendments is to add trash controls to the list of conditions the permittee or discharger must complete in order to be terminated from coverage from under the IGP or CGP.</p>
6.5	<p>Permittees should address a minimum number of un-permitted non-point sources. Trash generated from non-point sources has significant impact. As a result, recent trash TMDLs adopted in Region 4 and requirements in Region 2 all include load allocations</p>	<p>Chapter III.1.2.d. - A permitting authority* <del>may</del> shall require a <u>minimum amount of determine</u> <del>that</del> specific land uses or locations (e.g., parks, stadia, schools, campuses, or roads</p>	<p>Although the implementation provisions for compliance with the prohibition of discharge focus on trash discharge via storm water, it is well recognized that trash is transported to surface waters via both point and non-point sources. Statewide nonpoint source discharges of trash cause less of an impact to state water than point sources; however, at the local or regional level nonpoint sources can be a substantial source of trash. These areas may include high usage campgrounds, picnic</p>

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	<p>for non-point sources. Thus the State Board should require Regional Boards to address a minimum number of non-point sources within its region. Instead, the Amendments give complete discretion to the permitting authority to determine specific land uses or locations that generate substantial amounts of trash. Given limited resources, it is highly unlikely that Regional Boards will require additional measures beyond the existing Amendments' requirements. Instead of placing the burden on Regional Boards to determine non-point sources that are generating a substantial amount of trash, the State Board should require municipalities to conduct a hot spot survey every permit term to identify non-point sources of trash that contribute significant volumes of trash. Each survey should rank its non-point sources from the most egregious location to the lowest. We recommend the State Board require the permitting authority conduct a similar population analysis as Region 2's MRP in order to set a minimum number of non-point source discharges to be addressed. Additionally, homeless encampments and high-use beach should be addressed explicitly.</p>	<p>leading to landfills) to be deemed <u>trash hot spots</u> and <u>determined as trash hotspots generate substantial amounts of trash</u>. <del>In the event that the permitting authority makes that determination, the permitting authority may require the MS4* to comply with Chapter III.L.2.a. or Chapter III.L.2.b. (as the case may be) with respect to such land uses or locations. In addition to the minimum amount of trash hot spots, homeless camps and high-use beaches as defined in AB411 shall be deemed "hot spots."</del> Chapter III.L.3. - A permitting authority* may shall require dischargers, that are not subject to Chapter III.L.2. herein, to implement Trash* controls in areas or facilities that may generate Trash*. Dischargers subject to Chapter III.L.2. shall conduct a trash "hot spot" survey to</p>	<p>areas, beach recreation areas, and marinas, which can be subject to waste discharge requirements (WDRs) or conditional waivers of WDRs. These types of areas would be assessed by the Water Boards to determine if trash controls are necessary for compliance with the proposed Trash Amendments. For such areas determined to require trash controls within a WDR or waiver of a WDR, management practices could include enforcement of litter laws, education, recycling programs, more or better placement of trash receptacles, and/or more frequent servicing of trash receptacles. (Ocean Plan Amendment at III.L.3; Part I ISWEBE at IV.A.4.)</p> <p>As such, the Trash Amendments do not require municipalities to survey potential hotspots or require the permits to require each municipality to address a minimum number of hotspots. The Trash Amendments additionally do not preclude a permitting authority, such as the San Francisco Bay Water Board and the MRP, from addressing other sources of trash with a hotspot approach. The Trash Amendments are more land-use focused, and in the future the State Water Board could address non-point source trash in a more focused program as suggested by the commenter.</p>

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		<p><u>determine a minimum number of non-point sources that 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. In addition to the minimum amount of trash hot spots, <u>homeless camps and high-use beaches as defined in AB411 shall be deemed "hot spots."</u></u></p>	
6.6	<p>Priority land use areas should be defined precisely, free from loopholes, and include schools. Equivalent alternative land uses should be removed as a priority land use option. High density residential should remain at 10 units per acre. Schools should be added as a priority land use.</p>		<p>The State Water Board agrees with the need for clarity and believes that the five defined priority land uses (i.e., high-density residential, industrial, commercial, mixed urban, and public transportation stations land uses) provide sufficient clarity. The State Water Board disagrees that the provision allowing a permittee to request to comply with Track 1 or Track 2 for equivalent alternative land uses is a "loophole" and that provision will remain in the Trash Amendments. That provision provides flexibility to permittees to focus on addressing the land uses that generate the highest amounts of trash and is subject to the permitting authority's determination that the subject alternative land use generates trash equal or greater to one or more of the defined priority land uses. (See Ocean Plan Amendment and Part I ISWEBE, definitions, "Priority land uses")</p> <p>The proposed final Trash Amendments maintain high density</p>



Comment Letter	Comment	Recommended Language	Response
			<p>residential defined at 10 dwelling units per acre.</p> <p>While schools do generate trash, the Trash Amendments do not add schools as a priority land use. However, a permitting authority retains discretion to require a permittee to comply with Track 1 or Track 2 if the permitting authority determines that a school generates substantial amounts of trash. (Ocean Plan Amendment at III.L.2.d; Part I ISWEBE at IV.A.3.d.)</p> <p>More broadly than just schools, the Trash Amendments acknowledge that trash is generated from locations or land uses outside of the priority land uses that may require trash controls in order to meet water quality objectives and be protective of the beneficial uses of the receiving water. Within an MS4's jurisdiction, the Trash Amendments provide discretion to the permitting authority to determine that specific land uses or locations within an MS4's jurisdiction, in addition to priority land uses, generate "substantial amounts of trash" and require trash controls. (Ocean Plan Amendment at III.L.2.d; Part I ISWEBE at IV.A.3.d.) The specific land uses or locations include but are not limited to city neighborhoods, parks, stadia, or particular parking lots or roads. The required trash controls would either be Track 1 or Track 2, as determined by the permitting authority. (Ocean Plan Amendment at III.L.2.d; Part I ISWEBE at IV.A.3.d.) This approach is needed because it allows a permitting authority to regulate the discharge of trash from locations within a municipality it determines generates levels of trash that cause or contribute to violations of the statewide trash water quality objective. The water quality objective for trash is: "trash shall not be present in surface waters, along shorelines or adjacent areas in amounts that adversely affect beneficial use or cause nuisance." (Ocean Plan Amendment at II.C.5; Part I ISWEBE III.A.) Substantial amounts of trash would include, for example, trash generation loads that individually or cumulatively cause or</p>

Comment Letter	Comment	Recommended Language	Response
6.7	<p>We have seen great success in trash reductions as a result of these TMDLs. However, we are concerned that, as proposed, the Amendments require Region 4 to re-open 13 of the 15 trash TMDLs and consider modifications. Specifically, the draft Amendments state that “within one year of the effective date of these Trash Provisions, the Los Angeles Water Board shall convene a public meeting to reconsider the scope of its trash TMDLs, with the exception of those for the Los Angeles River and Ballona Creek watersheds, and to particularly consider an approach that would focus MS4 Permittee’s trash-control efforts on high-trash generation areas within their jurisdictions.” A reopening of this scope and magnitude is inappropriate and unnecessary.</p>	<p>Chapter III.L.1.b.2 - <del>Within one year of the effective date of these Trash Provisions*,</del> The Los Angeles Water Board shall <del>may</del> convene a public meeting to reconsider <u>the ability to allow TMDL responsible parties, who are determined to be at least 80% in compliance through the implementation of full capture systems, to achieve full compliance through focusing additional trash-control efforts on high-trash generation areas</u> scope of its trash TMDLs, with the exception of those for the Los Angeles River and Ballona Creek watersheds, <del>and to</del> <u>particularly consider an approach that would focus MS4* permittees’ trash-control efforts on high-trash-generation areas within their jurisdictions.</u></p>	<p>contribute to a violation of the statewide trash narrative water quality objective. The permitting authority’s finding of “substantial amounts of trash” would be informed by its determination that a permittee is causing or contributing to the violation of the statewide trash narrative water quality objective.</p> <p>The Los Angeles Water Board has led the way with effective trash management strategies with the Los Angeles River Watershed Trash TMDL and the other 14 trash and debris TMDLs. Since the adoption of the trash and debris TMDLs, significant trash reduction and trash control has occurred in the Los Angeles Region. The trash control efforts by permittees in the Los Angeles Region are laudable. Those effective strategies demonstrate that trash control is both necessary and achievable statewide.</p> <p>The Trash Amendments do not require the Los Angeles Water Board to re-open 13 of the 15 trash TMDLs. The State Water Board evaluated the efforts of the existing trash and debris TMDLs in order to develop the proposed Trash Amendments. In the evaluation process, the State Water Board and Los Angeles Water Board staff discussed the present day status of the trash and debris TMDLs and the proposed Trash Amendments. As trash and debris TMDLs are nearing the end of compliance, a public meeting will be held to reconsider the scope of existing TMDLs to reassess the progress, feasibility, and available resources of the trash control effort—within one year of the effective date of the Trash Amendments. (Ocean Plan Amendment at III.L.1.b.2; Part I ISWEBE at IV.A.2.b.2.)</p> <p>A public meeting does not constitute a re-opener; additionally, at any time the Los Angeles Water Board may reopen and reevaluate its trash TMDLs independent of the Trash Amendments’ provisions. A public meeting would focus on evaluating the scope of the trash and debris TMDLs in context of feasibility to achieve the wasteload allocations while</p>

Comment Letter	Comment	Recommended Language	Response
6.8	<p>The State Board should be explicit that each permittee is required to show a ten percent reduction in trash discharges annually for the ten year compliance schedule. Interim milestones are a critical component to ensure permittees meet the ten year compliance deadline. Throughout the stakeholder process, the State Board had always considered interim milestones of ten percent for ten years to be the appropriate requirement</p>	<p>Chapter III.L.4.a.3. and 4. (For both Tracks) - For MS4* permittees that elect to comply with Chapter III.L.2.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, reissued or newly adopted), along with achievements of interim milestones <del>such as an average of a</del> <u>minimum</u> ten percent (10%) of the full capture systems* installed every year. In no case may the final compliance date be later than fifteen (15) years from the effective date of these Trash Provisions*. SED, Pg.15 - "Within the ten-year compliance periods discussed above, the Water Board <del>can</del> <u>shall</u> set interim compliance milestones within a specific permit. These</p>	<p>maintaining the end goal of achieving water quality objectives for trash to support applicable beneficial uses.</p> <p>The State Water Board agrees that interim milestones are a critical component to ensure permittees reach the compliance schedule deadline, thus the proposed Trash Amendments specify that "the permit shall also require these permittees to demonstrate achievement of interim milestones" (Ocean Plan Amendment at III.L.5.a.2-4 (MS4s) and III.L.5.b.2 (Caltrans); Part I ISWEBE at IV.6.a.2-4 (MS4s) and IV.6.b.2 (Caltrans).) However, to provide flexibility for permittee site-specific conditions, the permitting authority is provided the discretion to set the precise quantification and timing of those interim milestones. Suggested interim milestones include average ten percent of full capture systems installed per year, average load reduction of ten percent per year, or other process towards full implementation. The State Water Board does not think the proposed language is necessary. (Ocean Plan Amendment at III.L.5.a.2-4 (MS4s) and III.L.5.b (Department); Part I ISWEBE at IV.6.a.2-4 (MS4s) and IV.6.b (Department).)</p>

Comment Letter	Comment	Recommended Language	Response
6.9	<p>Require all permittees to begin meeting compliance requirements within 18 months will reduce delays in implementation. Reducing the worst-case scenario of 15 years until compliance to only 11.5 years will get California quicker results without placing a burden on permittees.</p>	<p>interim milestones <del>could be set, for example, as</del> <u>should be a minimum ten percent reduction or ten percent installation per year.</u>"</p> <p>Within eighteen (18) months of the effective date of these Trash Provisions*, each permitting authority* shall <del>either:</del> (i) issue an order pursuant to Water Code section 13267 or 13383 requiring each MS4* permittee that will be complying under Chapter III.L.2.a.1. (Track 1) or Chapter III.L.2.b.2. (Track 2) to submit written notice to the permitting authority* stating whether such MS4* permittee will comply with the prohibition of discharge under Track 1 or Track 2, <del>or</del> <u>and</u> (ii) re-open, re-issue, or adopt an implementing permit that includes requirements consistent with these Trash Provisions*, and that requires notice from each MS4* as to whether it has elected to</p>	<p>If the final compliance was 11.5 years from the effective date of the Trash Amendments, then California would achieve quicker results in trash reduction. However, the commenter's proposed time schedule would place undue burden on both the permitting authority and the permittees. The time schedule in the Trash Amendments was designed for two purposes. First, as NPDES storm water permits are re-issued every five years, there is time provided for the permitting authority to incorporate the Trash Provisions into the permit. Second, to assist in effective planning by the permittee and to reduce a delay in the compliance schedule, eighteen months of the effective date of the implementing permit (or new designation) is provided to allow sufficient time to the permittee to develop an implementation plan for Track 2. The implementation plans must describe, among other details, the combination of selected controls, how those controls will achieve full capture system equivalency, and how such compliance will be demonstrated. (See i.e., Ocean Plan Amendment at III.L.4.a.1.A; Part I ISWEBE at IV.A.5.a.1.A.) Including the implementation planning time within the ten-year compliance schedule would burden both the permitting authorities and the permittee. The State Water Board does not think the proposed language is necessary.</p>

Comment Letter	Comment	Recommended Language	Response
6.10	<p>We support Track 2's call for source reduction as a means of controlling litter because source control ordinances in California have demonstrated that these policies can be an effective means of curbing litter, saving money, and changing consumer behavior. Plastic bag and foam bans have proliferated in recent years, as a response to a growing need for municipalities to reduce litter in order to save costs, improve the environment, and meet regulatory mandates such as TMDLs. Consequently, industry opposition has been fierce. In opposition to comments made by the American Chemistry Council, and Dart Industries during public testimony at the July 16, 2014 workshop, we believe source reduction policies are effective and should be incentivized in the Policy.</p>	<p>comply under Track 1 or Track 2.</p>	<p>Comment noted. See also Responses to Comments 1 and 1.2. Subsequent to the State Water Board's public workshop and the public hearing on the proposed Trash Amendments, Senate Bill 270 (2014 Stats. Ch. 850) was enacted. That new law enacts a state-wide plastic bag carry-out ban pertaining to grocery stores and pharmacies that have a specified amount of sales in dollars or retail floor space, which goes into effect July 1, 2015, and imposes the same ban on convenience stores and liquor stores a year later. The new law will implement a product ban, which was generally the type of regulatory source control contemplated by the State Water Board and discussed with the public with regard to consideration of the time extension option. The enactment of Senate Bill 270 removed the need for regulatory source controls, particularly product bans that would reduce trash (bag bans), in the proposed Trash Amendments. As a result, the proposed final Trash Amendments omit "regulatory source controls" as a method to comply with Track 2 and omit any corresponding allowance of time extensions. (See Final Staff Report at pp. 20-21 and pp.98-99.) Yet, subsequent to the enactment of Senate Bill 270 and the revision of the proposed Final Trash Amendments, opponents qualified a referendum on the law, delaying its July 1, 2015 effective date until the November 2016 elections, which would require a majority of votes for the referendum to succeed. The development of any bag ban ordinance as an "institutional control" to comply with Track 2, however, is speculative at this time given the pending statewide bag ban, the qualifying referendum notwithstanding.</p>

Comment Letter	Comment	Recommended Language	Response
6.11	<p>Only Track 1 Permittees should receive a time-credit extension for implementing source control ordinances. The time-credit extension was suggested by the Public Advisory Group with the intent of complementing Track 1’s structural BMP approach. However, the Amendments currently allow both Track 1 and 2 to receive a time-extension for passing a source-control ordinance.</p>		<p>Time extensions are no longer proposed under Track 1 or Track 2 of the proposed final Trash Amendments and have been removed because of the enactment of Senate Bill 270, which removed the need for regulatory source controls, particularly product bans that would reduce trash, in the proposed Trash Amendments. “Institutional controls” may be established by permittees to comply with Track 2, and such controls may include “ordinances.” However, it is not reasonably foreseeable that a product ban ordinance would qualify as reducing trash and any such ordinance is speculative and not a reasonably foreseeable method of compliance, the pending referendum on SB 270 notwithstanding.</p> <p>See also the General Response to Comment Letter 1 and Responses to Comments 1.2 and 6.10.</p>
6.12	<p>While we support Section 5’s source-control incentive, we believe minimum standards need to be established in order to ensure true source control is being implemented. We do not take a time extension lightly—trash reductions need to begin immediately. But source control is such a critical component of controlling trash that we believe the one to three year credit is affordable. However, the credit is only worthwhile if real source control is being implemented. As described above, a recycling program is not source control and is not effective. By its very definition source control is stopping something at its source and offering an alternative product. Recycling does not stop a source of</p>	<p><u>Source reduction for trash includes methods that eliminate trash generation at the source. These include bans on trash-generating products, such as single use plastic bags or the addition of plastic microbeads in personal care products, which lead to elimination of a product that becomes trash. In addition, non-ban regulatory approaches might include mandatory discounts on re-usable alternatives to single use products, such as a</u></p>	<p>See Response to Comment 6.11.</p> <p>“Regulatory source controls” have been omitted from an allowable method of compliance under Track 2 and the definition has been removed.</p> <p>See also the General Response to Comment Letter 1 and Response to Comment 1.2.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>pollution; it only offers to refurbish that source of pollution at a later time. There needs to be minimum standards for the permitting authority to apply before a time credit is received. Therefore, we request the State Board add minimum standards into the SED regarding what constitutes an appropriate regulatory source control.</p>	<p><u>discount provided to customers that bring reusable cups or containers for take-out food. Other options can include mandatory fees on trash generating items, such as cigarettes or take-out food and beverage containers, where the fee is intended to encourage either a reduction in the use of a single use disposable product that is likely to become litter, or is intended to provide funding to support cleanup programs.</u></p>	
6.13	<p>Particles less than 5mm in size were 16 times more abundant than those greater than 5mm, and weighed three times more than the larger particles. Recent research conducted in the Great Lakes by SUNY Fredonia and 5 Gyres also documents astounding levels of micro-plastics—43,000 microplastic particles per square kilometer. As a result of the increasing documentation of the impacts of microplastic pollution on the marine environment and human sources of food, California should address and stop the discharges of plastic debris less than 5mm. We request the State Board consider addressing</p>		<p>Comment noted with the acknowledgment that it does not directly relate to the Trash Amendments but to a potential different State Water Board project in the future.</p> <p>Additionally, the Trash Amendments address micro-debris in two main ways. First by capturing and stopping the transport of trash before entering the storm drain systems, minimizing the amount of breakdown that occurs. Second, the Trash Amendments propose a prohibition of discharge for preproduction plastics to waters of the state. Together these approaches will reduce the amount of micro-debris in the surface waters of California.</p>

Comment Letter	Comment	Recommended Language	Response
7.1	<p>microplastic pollution during its Storm Water Strategy Initiative through interagency collaboration on source control.</p> <p>The Trash Amendments' SED acknowledges that a "numeric objective of 'zero trash' could be an efficient regulatory tool because the measurement of compliance is clearly defined." However, the State Board goes on to claim that on "a feasible level, a single piece of trash found in a water body may or may not constitute impairment, and it may or may not be aesthetically displeasing." We disagree with the State Board's conclusion, and recommend a zero water quality objective be re-evaluated. For purposes of consistency, we recommend the State Board revise the Amendments' water quality objective to state that waterways shall not contain trash..." Or, if the Board wishes to keep the existing sentence structure, we recommend: "no trash shall be present..."</p>	<p>Trash* shall not <del>accumulate</del> be present in ocean waters, along shorelines or adjacent areas in amounts that adversely affect beneficial uses or cause nuisance.</p>	<p>Please see response to Comment 6.1.</p>
7.2	<p>The State Water Board needs to provide a performance standard for Track 2 Permittees to achieve, explicit language in the Amendments requiring monitoring to be conducted for Track 2, and minimum monitoring criteria for Track 2 Permittees to follow. The Amendments require Track 2 Permittees to achieve "the</p>	<p>MS4* permittees that elect to comply with Chapter III.J.2.b.2. (Track 2) shall develop and implement monitoring plans that demonstrate the mandated performance results, effectiveness of</p>	<p>Please see response to Comment 6.2.</p>



Comment Letter	Comment	Recommended Language	Response
	<p>same performance results as compliance under Track 1 would achieve..." To prove they are achieving the same performance results, Track 2 Permittees will be required to conduct monitoring to demonstrate they are reducing trash equivalent to that of Track 1 Permittees, but the Amendments lack specificity as to what shall be required for receiving water monitoring for Track 2. Instead, the Amendments only provide minimum monitoring and reporting requirements. We request the State Board provide an explicit performance standard in both the Amendments and the SED to help Track 2 Permittees demonstrate compliance. Alternatively, the State Board may consider requiring Track 2 Permittees to conduct a baseline analysis of all trash discharged within priority use areas, and then demonstrate a 100 percent reduction of that baseline assessment. If this is the State Board's intent, we strongly encourage the Board to provide sufficient monitoring guidance to ensure the baseline study and the annual monitoring is conducted appropriately. We recommend the State Board revise the Trash Amendments to be explicit that Track 2 Permittees are required to conduct a baseline assessment and annual receiving water</p>	<p>the full capture systems*, other treatment controls*, institutional controls*, and/or multi-benefit projects*, and compliance with the performance standard of (xx??). Monitoring reports shall be provided to the applicable permitting authority* on an annual basis, and shall include a <u>baseline monitoring report</u>, <u>minimum receiving water monitoring criteria as set forth in the Staff Report</u>, 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.</p>	

Comment Letter	Comment	Recommended Language	Response
7.3	<p>monitoring to demonstrate equivalent trash reductions as Track 1.</p> <p>We understand that Region 2's implementation of the MRP has been overwhelming, and agree that improvements need to be made. However, we don't agree that the Amendments will improve the status in the Bay Area. Implementation concerns with the MRP are just as likely under the Amendments new provisions. The problem is not with the MRP's provisions, but rather the lack of enforcement for poor implementation. The stringency of the effluent limits in the MRP in lieu of enforcement would be the worst kind of backsliding possible. Hold Region 2 MRP Permittees responsible for their permit requirements to reduce trash discharges by 40 percent by 2014 and to reduce discharges to 100 percent by 2022.</p>	<p>These Trash Provisions* apply to all surface waters of the State, with the exception of those waters within the jurisdictions of the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) and the San Francisco Regional Water Quality Control Board for which trash Total Maximum Daily Loads (TMDLs) or existing permit terms addressing 303(d) impaired waterways are in effect prior to the effective date of these Trash Provisions.</p>	<p>The implementation provisions in the proposed Trash Amendments are not expected to result in backsliding. Backsliding generally refers to reductions in treatment levels required by NPDES permits. The Clean Water Act and U.S. EPA's regulations limit the circumstances under which modified or reissued permits may set less stringent effluent limitations than required by previous permits. (CWA § 402(0)(3)(A)-(E); 40 CFR § 122.44(l); see also 40 CFR § 122.62 (applicable circumstances for permit modification or revocation).) The "anti-backsliding" provisions generally prohibit relaxation of effluent limitations previously established on the basis of best professional judgment, unless circumstances exist that make one of the exceptions to the general rule. The Trash Amendments' application to MRP and East Contra Costa Municipal Storm Water permittees does not allow less stringent effluent limitations. Additionally, permittees subject to the MRP and the East Contra Costa Municipal Storm Water Permit are expected to achieve the noted milestones by 2022 and 2023, respectively. To this end, the Trash Amendments specify that pertinent permitting authority for the aforementioned permits may set an earlier full compliance schedule than the ten years specified for Track 2. The trash control provisions in the MRP and the East Contra Costa Municipal Storm Water Permit are substantially equivalent to Track 2, and language was added to the proposed final Trash Amendments to clarify the required application of the Trash Amendments in the San Francisco Bay Region and Central Valley Region. (See Ocean Plan Amendment at Footnote 2; Part I ISWBE at Footnote 2.) Trash is a high priority pollutant for the State Water Board, and the proposed Trash Amendments should lead to increased implementation progress for MRP and East Contra Costa Municipal Storm Water Permit permittees. The State Water Board does not think the proposed language is necessary.</p>
7.4	<p>It is critical that the prohibition of</p>	<p>... Termination of permit</p>	<p>Please see Response to Comment 6.4.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>discharge of preproduction plastics remain absolute and unwavering in order to address the problem of preproduction plastics in receiving waters, and in order to comply with existing state law. In Chapter III.I.6.d, the Amendments contain a prohibition of discharge for preproduction plastics, but this prohibition conflicts with Chapter III.L.2.c. These two sections must be reconciled and it must be clarified that the prohibition of pre-production plastic discharges is absolute, and cannot be undermined by any other section of the Amendments.</p>	<p>cover the outright prohibition under Chapter III.I.6.a. for industrial and construction storm water* dischargers shall be conditioned upon the proper operation and maintenance of all controls (e.g., full capture systems*, other treatment controls*, institutional controls*, and/or multi-benefit projects*) used at their facility(ies). <u>Regardless of termination under Chapter III.I.6.a., all industrial storm water dischargers shall meet the outright prohibition for pre-production plastics under Chapter III.I.6.d.</u></p>	

Comment Letter	Comment	Recommended Language	Response
7.5	<p>Permittees should address a minimum number of un-permitted non-point sources. Trash generated from non-point sources has significant impact. As a result, recent trash TMDLs adopted in Region 4 and requirements in Region 2 all include load allocations for non-point sources. Thus the State Board should require Regional Boards to address a minimum number of non-point sources within its region. Instead, the Amendments give complete discretion to the permitting authority to determine specific land uses or locations that generate substantial amounts of trash. Given limited resources, it is highly unlikely that Regional Boards will require additional measures beyond the existing Amendments' requirements. Instead of placing the burden on Regional Boards to determine non-point sources that are generating a substantial amount of trash, the State Board should require municipalities to conduct a hot spot survey every permit term to identify non-point sources of trash that contribute significant volumes of trash. Each survey should rank its non-point sources from the most egregious location to the lowest. We recommend the State Board require the permitting authority conduct a similar population analysis as Region 2's MRP in order to set a minimum</p>	<p>Chapter III.L.1.2.d. - A permitting authority* <del>may</del> shall <u>require a minimum amount of determine</u> <del>that</del> specific land uses or locations (e.g., parks, stadia, schools, campuses, fast food restaurants, or roads leading to landfills) to be <u>deemed trash hot spots and determined as trash</u> <del>hotspots generate</del> <u>substantial amounts of</u> <del>Trash*.</del> <del>In the event that the permitting authority* makes that determination, the permitting authority* may</del> require the MS4* to comply with Chapter III.L.2.a. or Chapter III.L.2.b. (as the case may be) with respect to such land uses or locations. In addition to the minimum amount of trash hot spots, <u>homeless camps and high-use beaches as defined in AB411 shall be deemed "hot spots."</u> Chapter III.L.1.3. - A permitting authority* <del>may</del> shall require <u>dischargers, that are not subject to Chapter</u></p>	<p>Please see response to Comment 6.5.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>number of non-point source discharges to be addressed. In addition to a minimum amount of non-point sources to be addressed, a permitting authority should be explicitly required to issue WDRs to address homeless encampments and high-use beaches.</p>	<p>III.L.2. herein, to implement Trash* controls in areas or facilities that may generate Trash*.</p> <p>Dischargers subject to Chapter III.L.2. shall conduct a trash "hot spot" survey to determine a minimum number of non-point sources that generate trash, such areas or facilities may include (but are not limited to) high usage campgrounds, picnic areas, beach recreation areas, fast food restaurants, parks not subject to an MS4* permit, or marinas. In addition to the minimum amount of trash hot spots, <u>homeless camps and high-use beaches as defined in AB411 shall be deemed "hot spots."</u></p>	
7.6	<p>We have seen great success in trash reductions as a result of these TMDLs. However, we are concerned that, as proposed, the Amendments require Region 4 to reopen 13 of the 15 trash TMDLs and consider modifications. Specifically, the draft Amendments state that</p>	<p>Chapter III.L.1.b.2 - <del>Within one year of the effective date of these Trash Provisions*,</del> The Los Angeles Water Board shall convene a public meeting to reconsider</p>	<p>Please see Response to Comment 6.7.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>“within one year of the effective date of these Trash Provisions, the Los Angeles Water Board shall convene a public meeting to reconsider the scope of its trash TMDLs, with the exception of those for the Los Angeles River and Ballona Creek watersheds, and to particularly consider an approach that would focus MS4 Permittee’s trash-control efforts on high-trash generation areas within their jurisdictions.” A reopener of this scope and magnitude is inappropriate and unnecessary.</p>	<p>the ability to allow TMDL responsible parties, who are determined to be at least 80% in compliance through the implementation of full capture systems, to achieve full compliance through focusing additional trash-control efforts on high-trash generation areas—scope of its trash TMDLs, with the exception of those for the Los Angeles River and Ballona Creek watersheds, and to particularly consider an approach that would focus MS4* permittees’ trash-control efforts on high-trash-generation areas within their jurisdictions.</p>	
7.7	<p>Track 2 permittees should be required to install full-capture devices to the maximum extent feasible.</p>		<p>Please see Response to Comment 6.3.</p>
7.8	<p>Track 2 should have a 5 year compliance schedule.</p>	<p>For MS4* permittees that elect to comply with Chapter III.L.2.a.2. (Track 2), full compliance shall occur within five (5) years of the effective date of the first</p>	<p>Please see Response to Comment 6.9. For statewide consistency and in recognizing the need for site-specific flexibility, a ten year compliance schedule was developed for both Track 1 and Track 2. As permits are updated every five years, a ten year compliance schedule allows for adaptive management of the implementation plan to control trash. A ten year compliance schedule provides sufficient time for trash control with either Track 1 or Track 2 to</p>

Comment Letter	Comment	Recommended Language	Response
		<p>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 (120%) per year. In no case may the final compliance date be later than <del>ten fifteen</del> <u>(105)</u> years from the effective date of these Trash Provisions*.</p>	<p>be successful. Reduced time for compliance with Track 2 may result in less effective programs for trash control. For these reasons, both Track 1 and Track 2 should have a ten year compliance schedule.</p> <p>However, the time schedule in the proposed final Trash Amendments was modified to include provisions within new development with and MS4 and permittees designated after the effective date of the Trash Amendments. For MS4 Phase I and Phase II permittees that are newly designated as part of an existing MS4, it may not be feasible to expect compliance within ten years from the effective date of the first implementing permit (e.g., where designation occurs nine years after the first implementing permit). To address this, the proposed final Trash Amendments have been clarified so that for MS4 Phase I and Phase II permittees that are designated after the effective date of the Trash Amendments, full compliance must be demonstrated within ten years of the effective date of the designation. The State Water Board does not think the proposed language is necessary. (Ocean Plan Amendment at III.L.4.a.5; Part I ISWEBE at IV.A.5.a.5.)</p>
7.9	<p>The State Board should be explicit that each permittee is required to show a ten percent reduction in trash discharges annually for the ten year compliance schedule. Interim milestones are a critical component to ensure permittees meet the ten year compliance deadline. Throughout the stakeholder process, the State Board had always considered interim milestones of ten percent for ten years to be the appropriate requirement</p>	<p>Chapter III.L.4.a.3.and 4. (For both Tracks) - For MS4* permittees that elect to comply with Chapter III.L.2.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, reissued or newly adopted), along with achievements of interim milestones <del>such as an average of a</del></p>	<p>Please see Response to Comment 6.8.</p>

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		<p>minimum ten percent (10%) of the full capture systems* installed every year. In no case may the final compliance date be later than fifteen (15) years from the effective date of these Trash Provisions*. SED, Pg.15 - "Within the ten-year compliance periods discussed above, the Water Board <del>can</del> shall set interim compliance milestones within a specific permit. These interim milestones <del>will</del> be set, for example, as should be a minimum ten percent reduction or ten percent installation per year."</p>	
7.10	<p>All permittees should be given equal compliance schedules regardless of permit's renewal dates. The amendment should require all permittees to begin meeting compliance requirements within 18 months. Reducing the worst-case scenario of 15 years until compliance to only 11.5 years will get California quicker results without placing a burden on permittees.</p>	<p>Within eighteen (18) months of the effective date of these Trash Provisions*, each permitting authority* shall either: (i) issue an order pursuant to Water Code section 13267 or 13383 requiring each MS4* permittee that will be complying under Chapter III.L.2.a.1. (Track 1) or Chapter III.L.2.b.2. (Track 2) to submit written notice to</p>	<p>Please see Response to Comment 6.9. See Trash Amendments (Ocean Plan Amendment at III.L.4.a; Part I ISWEBE at IV.A.5.a.)</p>



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		<p>the permitting authority* stating whether such MS4* permittee will comply with the prohibition of discharge under Track 1 or Track 2, <del>or</del> (ii) re-open, re-issue, or adopt an implementing permit that includes requirements consistent with these Trash Provisions*, and that requires notice from each MS4* as to whether it has elected to comply under Track 1 or Track 2.</p>	
7.11	<p>As a Public Advisory Group Member, CCKA was largely responsible Chapter III.L.5., which provides time extensions to permittees who adopt a source control ordinance in their local community. We also support Track 2's call for source reduction as a means of controlling litter. California existing source control ordinances have established that such ordinances can be an effective means of curbing litter, saving money, and changing consumer behavior. As a response to California policy as well as a growing need for municipalities to reduce litter in order to save costs, improve the environment, and meet regulatory mandates such as TMDLs, in recent years, plastic bag</p>		Please see Response to Comment 6.10.

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	<p>bans and foam bans in particular have proliferated. In opposition to comments made by the American Chemistry Council, and Dart Industries during public testimony at the July 16, 2014 workshop, we believe source reduction policies are effective and should be incentivized in the Policy.</p>		
7.12	<p>Only Track 1 Permittees should receive a time-credit extension for implementing source control ordinances. The time-credit extension was suggested with the intent of complementing Track 1's structural BMP approach. However, the Amendments currently allow both Track 1 and 2 to receive a time-credit extension for passing a source-control ordinance.</p>		<p>Please see Response to Comment 6.11.</p>
8.1	<p>Caltrans is concerned with the implementation of full capture devices as recommended by the State Water Board staff. Our major concern is that these devices may not be compatible with the structural controls required for subsequent TMDL compliance identified within Attachment IV of the Caltrans NPDES Permit (Order 2012-0011-DWQ). We are also concerned about the implementation schedule. Recommendation: Full capture devices should not be limited to those listed in the trash amendment. If treatment controls are feasible,</p>		<p>The Trash Amendments provide that Caltrans may implement any combination of full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls to ensure that the full capture system equivalency is achieved. (Ocean Plan Amendment at III.L.2.b; Part I ISWEBE at IV.A.3.b.)</p> <p>The proposed Trash Amendments would require the State Water Board to modify the NPDES permit for Caltrans to incorporate the prohibition of discharge and implementation requirements of the proposed Trash Amendments within the permit. Until Caltrans' permit is amended, the proposed Trash Amendments would not apply. Until that event, Caltrans follows the conditions of Attachment IV of the Caltrans NPDES Permit (Order No. 2012-0011-DWQ). The proposed Trash Amendments take into consideration that strict use of full capture systems is infeasible for Caltrans. Treatment controls that are utilized by Caltrans to address trash and debris TMDL</p>

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	<p>Caltrans will implement devices that will address TMDLs and trash compliance (e.g., Media Filters, Infiltration basins, Detention devices, and other devices that may capture trash and treat for other pollutants). This amendment will require resources beyond current retrofit requirements identified within Caltrans NPDES Permit (Order 2012-0011-DWQ). Therefore, Caltrans recommends that the State Water Board revisit the compliance schedule and extend the proposed ten-year compliance deadline to be consistent with the 20-year TMDL compliance milestone. This would enable Caltrans to apply public funds more efficiently, installing devices that would be effective in treating multiple pollutants causing impairment to the water body.</p>		<p>compliance would be deemed acceptable for compliance towards the prohibition of discharge in the Trash Amendments. As trash is a priority pollutant across California, a ten-year compliance schedule will be maintained for both Caltrans and Phase I and Phase II MS4 permits.</p>
8.2	<p>Caltrans has established goals and metrics for demonstrating progress in meeting TMDL requirements in Attachment IV of our Permit. One purpose of Attachment IV was to standardize how Caltrans complies with NPDES requirements statewide, including standardizing monitoring and reporting requirements. Recommendation: Caltrans recommends that the amendment include a provision to allow Caltrans to report progress toward meeting the requirements of the amendment consistent with Attachment IV of our</p>		<p>The proposed Trash Amendments would require the State Water Board to modify the NPDES permit for Caltrans to incorporate the prohibition of discharge and implementation requirements of the proposed Trash Amendments within the permit. (See Ocean Plan Amendment III.L.2.b; Part I ISWEBE IV.A.3.b.) Until that event, Caltrans follows the conditions of Caltrans NPDES Permit (Order No. 2012-0011-DWQ). The monitoring and reporting requirements of the Attachment IV of the Caltrans NPDES Permit (Order No. 2012-0011-DWQ) and the proposed Trash Amendments should not be inconsistent.</p>

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8.3	<p>Permit.</p> <p>There is a need to allow public education and other non-structural controls, and not focus solely on structural full capture devices. Over the past decade, Caltrans has invested in litter campaigns, such as "Keep California Beautiful," "Litter Day," the "California Highway Patrol Litter Campaign," "Don't Trash California," and many other studies and outreach programs, including partnerships with local communities. In addition, Caltrans implements adopt-a-highway and other trash reduction programs that have a significant impact on reducing trash in the state. Recommendation: Caltrans recommends that the State Water Board incorporate such language within Track 2 compliance to allow Caltrans to continue its non-structural trash reduction programs statewide (including public education, Adopt-A-Highway, institutional controls, and other trash reduction practices) instead of solely requiring retrofit with full capture devices.</p>		<p>See Response to Comment 8.1.</p> <p>The State Water Board agrees that public education campaigns, specifically "Keep California Beautiful" and "Don't Trash California," are successful trash reduction programs that Caltrans employs to reduce trash on highways across the state. The Trash Amendments' implementation plan specific for Caltrans recognizes that a combination of treatment and institutional controls (such as Caltrans education campaigns) are currently employed and continue to be utilized by Caltrans to control trash. The proposed Trash Amendments' language allows for a combination of full capture systems, other treatment controls, multi-benefit projects, and institutional controls. Institutional controls encompass the wide range of non-structural trash reduction programs and controls available to Caltrans to control trash. (See the defined term for "institutional controls" in the definitions section of the Trash Amendments.)</p>
8.4	<p>Caltrans is concerned that the majority of the high trash generating areas identified within the trash amendment have already been incorporated within Attachment IV (TMDL) watersheds. Caltrans is concerned that the amendment</p>		<p>The Trash Amendments do not modify trash control practices within high priority TMDL areas as described within Attachment IV of Caltrans NPDES Permit (Order No. 2012-0011-DWQ), which only exists in the Los Angeles Region. The Trash Amendments will establish a set of implementing trash controls in high trash generating areas outside of existing TMDLs. These requirements would be incorporated for implementation</p>

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	<p>includes another layer of prioritization that will not be consistent with Attachment IV of our Permit and may not result in environmental benefit.</p> <p>Recommendation: Caltrans recommends that the State Board place a provision in the trash amendment that allows Caltrans to implement trash control practices within high priority TMDL areas as described and to be consistent with Attachment IV of our NPDES Permit.</p>		<p>in the next Caltrans NPDES Permit. (See Ocean Plan Amendment III.L.2.b; Part I ISWEBE IV.A.3.b.)</p>
8.5	<p>Caltrans has concerns with how the State Water Board intends to manage the certification of full capture systems. There are several types of BMP devices capable of removing trash; therefore, the State Water Board should expand its list of approved full capture devices. Caltrans is also concerned with the emphasis of vortex separators, as this is not consistent with concerns of standing water and vector concerns. Recommendation: Caltrans requests that the State Water Board revise the language to state that any type of BMP capable of removing trash as required by the stated criteria in the Trash Amendments will serve as an acceptable full capture device. Caltrans also requests that the State Water Board provide a revised, expanded list of approved full capture devices including the</p>		<p>To provide statewide consistency and ensure that limited resources are allocated to full capture systems that properly capture trash, the State Water Board will utilize a similar process to the full capture system certification process as the Los Angeles Water Board. The proposed final Trash Amendments specify that full capture systems (see definitions section in the Trash Amendments) certified by the Los Angeles Water Board or listed in Appendix I of the Bay Area-wide Trash Capture Demonstration Project, Final Project Report (May 8, 2014) are deemed to be in compliance with the proposed final Trash Amendments. Previously, the Los Angeles Water Board certified two of Caltrans' Gross Solids Removal Devices, Linear Radial – Configuration 1 (LR1 I-10) and Inclined Screen – Configuration 1 (IS1 SR-170), to comply with the Ballona Creek and Los Angeles River Trash TMDLs. As Caltrans complies with trash TMDL requirements in Attachment IV of the Caltrans NPDES Permit (Order No. 2012-0011-DWQ), the full capture systems that are installed must be further certified by the State Water Board and deemed available for use to comply with the prohibition of discharge for trash.</p>

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8.6	<p>addition of media filters, infiltration devices, detention devices, and other devices proven effective for trash capture.</p> <p>Caltrans is concerned with the use of the term “public transportation areas” throughout the Trash Amendments. Public transportation areas could refer to the Caltrans roadways statewide, in addition to priority land uses.</p> <p>Recommendation: Caltrans requests that the State Water Board revise this statement to clarify the meaning of “public transportation areas” in relation to “priority land uses.”</p>		<p>The Trash Amendments do not use the term “public transportation areas”. The Trash Amendments specify “public transportation stations” under “priority land uses”. “Public transportation stations” do not include Caltrans roadways statewide. Facilities or sites are where public transit agencies’ vehicles load or unload passengers or goods. (See Ocean Plan Amendment and Part I ISWEBE definition for “public transportation stations” under definition for “priority land uses.”) An example would be a bus station, bus stop, or train stop. This is not in conflict with Caltrans roadways as “public transportation stations” are defined through “priority land uses”, which are only applicable to Phase I or Phase II MS4 permittees. Implementation provisions for Caltrans are focused to “significant trash generating areas”. (See Ocean Plan Amendment and Part I ISWEBE definition for “significant trash generating areas.”)</p>
8.7	<p>Caltrans provides mobility in a safe manner to the traveling public. What can be installed for litter control is not always feasible (e.g., inlet screens, etc.) due to concerns for safety to the traveling public (including hydroplaning, flooding, etc.) and safety to the Maintenance staff, traffic delays, etc.</p> <p>Recommendation: Caltrans requests that the State Water Board recognize that structural BMP retrofits may not be feasible in all areas, such as on freeways through high-density residential, commercial, and industrial areas due to potential</p>		<p>The State Water Board agrees that structural BMP retrofits may not be feasible in all areas since Caltrans is a linear system. As proposed, the Trash Amendments provide the flexibility to install, operate, and maintain any combination of full captures, other treatment controls, multi-benefit projects, and institutional controls. This would additionally provide flexibility to address potential safety concerns with trash controls. Additionally, please see Response to Comment 8.3.</p>

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	<p>safety concerns. The amendment should incorporate flexibility to address potential safety concerns and alternative trash controls, such as those identified within comment 3 above, should be recognized as a substitute to full capture retrofit. 8.</p>		
8.8	<p>This statement does not take into consideration that Caltrans has invested in capital resources for installation of trash control devices to address the trash TMDL compliance in the Los Angeles Region. Addressing the trash amendment will cost Caltrans significantly more than \$1,040 per lane-mile when considering the whole life costs of trash control expenditures. Recommendation: Delete either the inaccurate statement or add a caveat that Caltrans has invested a significant amount of resources on litter removal and the whole life costs of litter removal as experienced in the Los Angeles Region has been much more than \$1,040 per lane-mile.</p>		<p>At the time the Staff Report was developed, the State Water Board did not have cost data related to the capital resources that Caltrans has invested in the Los Angeles region. The proposed Trash Amendment is only applicable to areas not covered under an already existing trash or debris TMDL in the Los Angeles Region. Staff assumed that costs for Caltrans would be similar to the compliance costs of other MS4 dischargers.</p> <p>New information of cost expenditures was provided by Caltrans on November 7, 2014. Please see responses to Comment Letter 78. (Final Staff Report Appendix C, pp. C-2-4, C-15, C-18-19, and C-50-54.)</p>
8.9	<p>Caltrans disagrees with the estimation of the annual cost. The Trash Amendment cost will be significantly more for the following reasons: 1) An \$800 drop inlet screen is infeasible for highway application due to safety concerns (e.g., flooding, hydroplaning causing accidents to the traveling public and</p>		<p>Please see Response to Comment 8.8.</p> <p>The Staff Report (Appendix C, section 8, pp. C-50-53.) evaluated all information pertaining to costs that was accessible to the State Water Board regarding the cost of compliance for Caltrans discharges for inclusion into the Economic Considerations section of the Staff Report. Cost assumptions for similar MS4 Phase I and II permittees were</p>

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	<p>inability for Caltrans Maintenance staff to maintain the inlet safely). 2) The high priority areas noted in the trash amendment of high-density residential, commercial, industrial, on/off ramps will likely be more than 20 percent of the urban areas. Recommendation: Either delete or correct the table. The incremental capital, operation and maintenance costs for Caltrans are significantly underestimated. Additional annual costs include operation and maintenance costs, capital outlay support, traffic controls, environmental documentation, etc. Caltrans looks forward to working with the Board to refine the cost estimates.</p>		<p>used in the analysis.</p> <p>New information of cost expenditures was provided by Caltrans on November 7, 2014. Please see responses to Comment 78. (Final Staff Report Appendix C, pp. C-2-4, C-15, C-18-19, and C-50-54.)</p>
8.10	<p>Caltrans would like to minimize the use of limited resources spent on reporting. Recommendation: Caltrans reporting for the trash amendment should be incorporated with the Caltrans TMDL Status Reporting efforts and simply limited to listing the areas where trash reduction has been achieved. No BMP performance, trash reduction calculations should be needed.</p>		<p>Trash is a prevalent pollutant in California. The Caltrans managed roadways are a generator of trash, so the implemented trash controls should be monitored to demonstrate effectiveness of controls and compliance with full capture system equivalency. However, the Trash Amendments would not preclude Caltrans from incorporating trash control plans and reporting into existing reporting efforts.</p>
9.1	<p>We would ask that State Board to consider amending the trash amendments to completely eliminate “regulatory source controls” from Track 2 and consider a more comprehensive approach that</p>		<p>Regulatory source controls have been omitted from the final proposed Trash Amendments. Please see also the General Response to Comment Letter 1 and response to Comment 1.3. Commenter’s concerns relate to regulatory source controls and time extensions which have been removed from the proposed Final Trash Amendments. (Ocean Plan Amendment at</p>



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	<p>captures all types of trash in the waterways. With some modifications, Track 2 could be an effective means Of trash control. Specifically, Track 2 should explicitly prohibit MS4 permittees to rely on measures that the data shows are ineffective to reduce trash in the receiving waters; should require a certification Process for non--- structural, institutional control elements; and Require additional monitoring to show that MS4 permittees using Track 2 are reducing trash in the receiving waters.</p>		<p>removed III.L.5; Part I ISWEBE at removed IV.A.6) Based on the revisions and discussions in the referenced responses, commenter's underlying arguments are not applicable to the Trash Amendments which will be considered for adoption by the Board and they will not be responded to in detail.</p> <p>The proposed final Trash Amendments were modified to incorporate the term 'full capture system equivalency', which is the trash load that would be reduced by Track 1. (See Ocean Plan and Part I ISWEBE, Definitions, "Full capture system equivalency.") To achieve full capture system equivalency, effective controls must be implemented. The monitoring requirements for Track 2 were modified to focus on the demonstrating the effectiveness of controls and compliance with full capture system equivalency. (See Ocean Plan at III.L.5.b-c and Part I ISWEBE at IV.L6.b-c.) These components of the Trash Amendments should minimize the commenter's concerns on ineffective controls. Additionally, the State Water Board will only be certifying full capture systems to ensure utilized full capture system met the design criteria and not non-structural controls. (See Ocean Plan Amendment and Part I ISWEBE, Definitions, "Full capture system.")</p>
10.1	<p>High generating land uses may vary by community across the state. There may be instances, especially in Phase II communities but also rural areas within a Phase I footprint, where some portion of the priority land use area may not in fact be a high trash-generating area. Rather than installing devices or institutional controls in areas where the return on the investment will be low, we recommend that the Trash Amendments allow for flexibility by establishing a process through which</p>	<p>The draft Trash Amendments say that "an MS4 may request that its permitting authority 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</p>	<p>Trash is a priority pollutant across California. The State Water Board agrees that the Trash Amendments should provide flexibility for permittees to determine the most effective and efficient methods and controls to control trash discharges from the areas that have trash generation rates. Therefore, the Trash Amendments focus on a dual alternative "compliance track" approach to provide the flexibility to permittees to determine the most effective means of controlling trash while taking into consideration particular site conditions, types of trash, and the available resources for maintenance and operation. The priority land uses are based on lessons learned and extensive data collected from permittees with existing trash controls, either a Trash TMDL or permit conditions. The priority land uses include five categories of land uses that generate</p>

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	<p>permittees could petition their Regional Water Board to review the areas in question and give the public agency the authority to exempt such areas if they are found not to be high trash-generating. The exemption could include a 'sunset 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.</p>	<p>the option of adding land uses, but does not allow the exclusion of low generating sub-regions of an otherwise high trash land use. We suggest the addition of language to indicate "an MS4 may request its permitting authority to approve an exemption from treatment controls if that MS4 has areas within its jurisdiction that generate trash at rates that are significantly lower than estimated for the priority land use listed."</p>	<p>high amounts of trash. The State Water Board recognizes that other land uses may generate higher rates of trash. To allow for these occurrences the Trash Amendments include a provision for a MS4 permittee to focus on "equivalent alternate land uses" under both Track 1 and Track 2. (See Ocean Plan Amendment and Part I ISWEBE, Definitions Section, for "priority land uses.") Quantification measures such as street sweeping, mapping, and visual trash presence surveys can be used to prioritize these land uses for Track 1 or Track 2 controls. However, the State Water Board disagrees with providing an exemption of priority land uses that are shown to have low rates of trash generations. The permittee may apply the focus of trash controls to an equivalent alternate land uses. A priority land use that generates low trash amounts can be exchanged for another land use that generate equivalent or higher amounts of trash. (Ocean Plan Amendment and Part I ISWEBE definition of "equivalent alternate land uses.") The State Water Board understands that each priority land use across the state will generate trash at different amounts due to site specific conditions; however, the permittee would need to demonstrate effectiveness of existing controls and that existing controls are sufficient to meet the prohibition of discharge for trash.</p>
10.2	<p>Many MS4 permittees around the state have been working extensively with the Regional Water Boards to develop and implement watershed management programs, often based on watershed specific prioritization of pollutant and water quality conditions. These comprehensive watershed planning processes consider trash, as well as many other pollutants of concern (POCs). As drafted, the Proposed Trash Amendments would supersede and undermine existing watershed</p>		<p>Storm water plays an important role in the management of California's water resources. As the natural landscape and hydrology are modified to support California's growing population, there is an increased impact on water quality and supply. Storm water is a resource and must be treated accordingly. The main objective of treating storm water as a resource is to protect and restore watershed processes that are critical to watershed health. The State Water Board recognizes and supports extensive work that many MS4 Phase I and Phase II permittees are doing across the state to develop and implement watershed specific prioritization of pollutants and water quality conditions. The State of California, along with the State Water Board, recognizes that trash is a high priority pollutant that impairs the beneficial uses for aquatic life and</p>

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	<p>planning efforts, effectively determining that trash is the highest priority and taking resources away from the established watershed based priorities. The Proposed Trash Amendments need to recognize the value of current management programs and not divert resources away from ongoing successful efforts to control trash in our waterways. CASQA urges the State Water Board to allow MS4 programs with existing watershed-based management plans or POCs-focused water quality implementation plans to address trash in the prioritization context of those existing plans.</p>		<p>public health, causes an aesthetic nuisance, and reduces the economic value of California's recreation areas. Trash is a pervasive pollutant and one of the most easily recognized pollutants. Most importantly, trash is a controllable pollutant in storm water. The Trash Amendments do not supersede existing requirements and planning efforts. State Water Board believes the framework of the Trash Amendments allows trash control to be a compatible priority with existing watershed-based management plans and pollutant of concerns.</p>
10.3	<p>CASQA supports the approach to not requiring monitoring or performance demonstration for Track 1. In reality most permittees that select Track 2, will implement a combination of full capture devices and other control measures. The Trash Amendments should make it clear that permittees who select Track 2 do not need to monitor or demonstrate performance in those portions of their jurisdictions served by full capture devices. CASQA objects to the requirement for MS4 permittees to conduct receiving water monitoring. As noted, other sources contribute trash to receiving waters and imposing this requirement on MS4 permittees will</p>		<p>Please see Response to Comment 4.6 and 73.1.</p>

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	<p>not provide a definitive indication of the effectiveness of stormwater trash control programs. While MS4 permittees may want to conduct receiving water monitoring to demonstrate performance, it should not be mandated.</p>		
10.4	<p>It is essential that the program be developed in conjunction with a funding mechanism. Municipal stormwater agencies do not generate the trash and should not bear the full responsibility for funding and implementing the corrective measures. The State Water Board needs to assist with the development of funding sources for permittees to comply with the Trash Amendments. CASQA does not dispute the water quality benefits of controlling trash. However, the costs presented in the Staff Report and Economic Analysis exceed most communities' ability to fund. Grant funds have assisted many communities to install full capture devices. This type of competitive grant funding while valuable, takes a significant effort to win and manage. Grants, such as the Proposition 84, do not address the ongoing costs of managing and maintaining treatment devices. Proposition 218 currently precludes MS4 permittees from raising their fees for Stormwater management (where fees even exist). Even with the recent changes to Proposition</p>		<p>The State Water Board provides financial assistance through various State and federal loan and grant programs to help local agencies, businesses, and individuals meet the costs of water pollution control. The Public Resources Code requires that the Proposition 84 Storm Water Grant Program funds are used to provide matching grants to local public agencies for the reduction and prevention of storm water contamination to rivers, lakes, and streams. Please visit the following website for more information:  <a href="http://waterboards.ca.gov/water_issues/program/grants_loans/prop84/index.shtml">http://waterboards.ca.gov/water_issues/program/grants_loans/prop84/index.shtml</a></p> <p>Additional financial assistance information including information on the Clean Water State Revolving Fund loans, is available at: <a href="http://www.waterboards.ca.gov/water_issues/programs/grants_loans/">http://www.waterboards.ca.gov/water_issues/programs/grants_loans/</a></p> <p>CalRecycle administers funding programs to assist with waste disposable, specifically reducing beverage container litter in the waste stream. Information on the Beverage Container Recycling Grants is available at: <a href="http://www.calrecycle.ca.gov/bevcontainer/grants/">http://www.calrecycle.ca.gov/bevcontainer/grants/</a></p> <p>In addition, the Trash Amendments specify coordination of effort between Caltrans and MS4 in overlapping significant trash generating and/or priority land uses. Coordination with Caltrans will increase the avenues for funding.</p>

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	<p>218, the typical full capture devices are catch basin inserts and would not be considered eligible for the water supply exception resulting from AB 2403. CASQA recommends that the State Water Board partner with MS4 permittees to explore the creation of a non-competitive program to fund trash control measures. One such program that could serve as an example is the Used Oil Payment Program (OPP). CASQA strongly encourages the State Water Board to explore mechanisms to create economic incentives for producers of products determined to be the primary components of trash in the MS4 and water bodies.</p>		<p>Modifications to Proposition 218 are outside of the scope of these Trash Amendments. With the Storm Water Strategic Initiative, the State Water Board aims to improve program efficiency and effectiveness by providing more assistance to overcoming funding barriers.</p> <p>For a response to establishing a program similar to the Used Oil Payment Program, please see response to Comment 4.7.</p>
10.5	<p>CASQA recommends that the State Water Board create a list of certified devices prior to the adoption of the Proposed Trash Amendments or revise the language to indicate that any full capture device that meets the stated criteria fulfills the certification requirement. This latter approach has the further advantage of allowing the suite of allowable devices to be dynamic as permittees learn which devices prove more (or less) effective and allows manufacturers to modify their designs and introduce or remove devices from their product line. CASQA recommends that automatic certification be extended to any full</p>		<p>The certification process is to ensure that the general design of a full capture system is effective at capturing trash 5 mm or greater during the one-year one-hour storm event. The certification process will ensure resources are directed towards effective treatment controls to capture and remove trash. A list of certified devices such as what the commenter suggests is already incorporated by reference (e.g. systems certified by the Los Angeles Water Board). In addition to the certified full capture systems by the Los Angeles Water Board, the proposed final Trash Amendments have been modified to grandfather full capture systems listed in Appendix I of the Bay Area-wide Trash Capture Demonstration Project, Final Project Report (May 8, 2014). (Ocean Plan Amendment and Part I ISWEBE, Definition Section, "Full capture systems.") These full capture systems can be found at: <a href="http://www.sfestuary.org/wp-content/uploads/2014/05/AppendixI.DevicesOffered.pdf">http://www.sfestuary.org/wp-content/uploads/2014/05/AppendixI.DevicesOffered.pdf</a>.</p>

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	trash capture device approved by a Regional Water Board to comply with existing NPDES permits. This certification can be extended for the life of the installed device.		The State Water Board is unaware of any other certifications issued by the State or Regional Water Boards. Blanket approval of any and all full capture systems included in a permit without additional review would not meet the State Water Board's goal of ensuring effective trash capture.
10.6	CASQA recommends that the State Water Board require that other regulated entities implement the Proposed Trash Amendments through a regulatory process external to the MS4 permits. The State Water Board should include provisions to require implementation of the Proposed Trash Amendments, not only through inclusion in MS4 permits, but through other NPDES Permits, WDRs, and Waiver Provisions.		Statewide the transport of trash through storm water systems to receiving waters is a substantial source of trash. The Trash Amendments specify provisions for NPDES permits issued pursuant to Federal Clean Water section 402(p). Statewide, nonpoint source discharges of trash cause less of an impact to state water than do point sources. However, at the local or regional level, nonpoint sources can be a substantial source of trash. "Dischargers without NPDES permits, WDRs, or waivers of WDRs must comply with [the] prohibition of discharge." (Ocean Plan Amendment at III.I.6.d; Part I ISWEBE at IV.A.2.d.) The Trash Amendments provide that a permitting authority may require such dischargers to implement any appropriate trash controls in areas or facilities that generate trash, which include, but are not limited to, high usage campgrounds, picnic areas, beach recreation areas, parks not subject to an MS4 permit, or marinas. (Ocean Plan Amendment at III.L.3; Part I ISWEBE at IV.A.4.)
10.7	CASQA recommends the State Water Board consider providing off ramps from the requirements for MS4 permittees that do not have trash impaired waters where the permittee can demonstrate they do not have a trash or litter problem. The Proposed Trash Amendments can recognize that many surface waters in the state are not impaired for trash and provide an option that if the MS4 permittees can demonstrate		See Response to Comment 10.1.  Trash is a priority pollutant across California. The assertion about the lack of impaired waters skews the manner in which impairments are identified in California. Specifically, many water bodies have no data on which to base any impairment decision. Thus the lack of a determination of impairment may not be used as evidence of water quality not exceeding objectives.

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	<p>any of the following the Amendments should not apply to that MS4. 1) The MS4 does not have any of the high trash generating land uses within its jurisdiction; or 2) The MS4 is currently meeting the discharge prohibition of no discharge of trash to surface waters of the State, or the deposition of trash where it may be discharged into surface waters of the State; or 3) The MS4's receiving waters meet the water quality objective of trash in amounts less than that adversely affecting beneficial uses or causing nuisance.</p>		<p>The Trash Amendments focus on a dual alternative "compliance track" approach to provide the flexibility to permittees to determine the most effective means of controlling trash while taking into consideration particular site conditions, types of trash, and the available resources for maintenance and operation. The priority land uses are based on lessons learned and extensive data collected from permittees with existing trash controls, either as trash TMDLs or permit conditions.</p> <p>Specifically if an MS4 does not have any priority land uses within its jurisdiction, then the MS4 permittee would not have either Track 1 or Track 2 trash control provision in the implementing permit. Treatment or institutional controls implemented to comply with existing permit conditions for the discharge of trash are a likely reason for low trash generation. The State Water Board understands that each priority land use across the state will generate trash at different amounts due to site specific conditions; however, the permittee would need to demonstrate to the permitting authority the effectiveness of existing controls and that existing controls are sufficient to meet the prohibition's compliance requirements. The State Water Board does not consider existing controls to be off ramps, but instead a clear demonstration that a permittee already has a trash control program to achieve the conditional prohibition of discharge of trash (e.g. the permittee has already achieved compliance with Track 2). Overall, the focus of the Trash Amendments is to control and reduce the amount of trash in California's surface waters.</p> <p>For a response to an MS4's receiving waters meeting the water quality objective for trash, please see Response to Comment 4.1.</p>

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10.8	<p>CASQA therefore requests the Proposed Trash Amendments be modified to either (1) provide Regional Water Boards the discretion to add additional time for implementation or (2) limit the timeframe in which Regional Water Boards can add additional priority land uses to the initial establishment of the permittee's program.</p>		<p>The Trash Amendments provide a time schedule of ten years from the effective date of the first implementing permit for MS4 Phase I and Phase II permittees to be in compliance with the prohibition of discharge. (Ocean Plan Amendment at III.L.5.a.2-3; Part I ISWEBE at IV.A.6.a.2-3.)</p> <p>The framework for the Trash Amendments focuses on trash control for priority land uses. (Final Staff Report at Sections 2.1-2.4.) In addition to the identified priority land uses, the Trash Amendments provide provisions for a permitting authority to determine that additional specific land uses or locations generate substantial amount trash to warrant additional trash controls by the permittee. Those locations may include parks, stadia, schools, and roads leading to landfills. (Ocean Plan Amendment at III.L.2.d; Part I ISWEBE at IV.A.3.d.)</p> <p>The State Water Board agrees that the draft Trash Amendments previously lacked clarity on the time schedule for such specific land uses or locations. To clarify the time schedule of additional specific land uses or locations, language was added to the proposed Trash Amendments specifying that the permitting authority has the discretion to determine a time schedule that shall occur as soon as practical for the determined location and shall be no later than ten years from the determination. (Ocean Plan Amendment at III.L.5.a.5; Part I ISWEBE at IV.A.6.a.5.)</p>
10.9	<p>The Proposed Trash Amendments propose narrative water quality objectives for the Inland Surface Waters, Enclosed Bays and Estuary Plan and the Ocean Plan, and proposes a prohibition of trash discharge in those Plans. The MS4 permittees would be considered in full compliance with the prohibition of trash discharge so long as the permittees were fully implementing</p>		<p>Please see response to Comment 4.1.</p> <p>Implementing Track 1 and Track 2 means that the permittees are in compliance with the prohibition. (Ocean Plan Amendment at III.I.6.a; Part I ISWEBE at IV.A.2.a.) The State Water Board is not proposing to add language to specify the MS4 permittees are in compliance with the receiving water limitations so long as they are fully implementing Track 1 or Track 2.</p>



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	<p>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 water quality objectives). CASQA recommends adding language to the Proposed Trash Amendments indicating the MS4 permittees are in compliance with the receiving water limitations so long as they are fully implementing Track 1 or Track 2.</p>		<p>It may be appropriate for the permitting authority / water board to issue a permit that provides that a permittee is in compliance with a receiving water limitation based on compliance with the trash water quality objective so long as the permittee is in compliance with the trash-specific permit terms in the MS4 permit. Any such determination, however, would be limited to effluent limitations in locations within priority land uses because the permitting authority retains discretion to determine that specific land uses outside of the priority land uses generate substantial amounts of trash and require trash controls in such areas. (Ocean Plan Amendment at III.L.2.d; Part I ISWEBE at IV.A.3.d.)</p>
10.10	<p>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. CASQA recommends the State Water Board add 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. CASQA recommends that language be included in the Proposed Trash Amendments stating that if the</p>		<p>The State Water Board expects the Trash Amendments will constitute adequate pollution control measures to meet water quality standards and serve as an alternative to a TMDL for water bodies listed as impaired for trash.</p> <p>Following adoption of the proposed Trash Amendments, a water body listed as impaired for trash on the 303(d) list (Category 5) could be moved to Category 4b, where the trash control requirements obviate the need for a TMDL. For the same reason, subsequent to adoption of the trash amendments, the State Water Board anticipates that any water segments added to the Integrated Report for the first time for trash impairment will be placed in Category 4b. Additionally, the U.S. EPA has expressed support with the anticipated approach to place waters impaired for trash in Category 4b as. See, for example, the U.S. EPA's Comment Letter 73 (Attachment thereto, page 3).</p>

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10.11	<p>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.</p> <p>The State Water Board should provide consistency between the water quality objectives and prohibitions by revising the trash prohibitions to include language that qualify that the trash discharges being prohibited and controlled by the specified implementation requirements, is the trash "in amounts that cause impairment of beneficial uses or conditions of nuisance in receiving waters."</p>		Please see Responses to Comments 4.1 and 10.9.
10.12	CASQA requests that when the revised draft of the Trash Amendments is released for public review that the entire document, not just the changed text, be open for further comment to allow stakeholders to consider the whole of the revised proposal.		The public process for the development of the Trash Amendments has afforded extensive opportunity for stakeholder input: On June 26, 2007, October 7 and 14, 2010, the State Water Board held a public meetings and sought public input regarding a statewide regulatory effort to control trash in waters of the state, and solicited comments on the scope and content of the environmental information to be considered in the development of the project. The State Water Board convened a Public Advisory Group composed of ten stakeholders representing municipalities, California Department of Transportation, industry, and environmental groups. The Public Advisory Group met on July 26, 2011, August 30, 2011, October 12 and 13, 2011, May 22, 2012, August 13, 2012, and March 6, 2013 to provide comments on, and feedback to, the development of the proposed Trash Amendments and Draft Staff Report. In March, April, and May 2013, State Water Board held fourteen focused stakeholder meetings to provide an overview of the development of the proposed Trash

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			<p>Amendments and to receive feedback on key issues prior to the development and distribution of the proposed Trash Amendments and the Draft Staff Report. On June 10, 2014, the State Water Board provided notice to members of the public and public agencies of the opportunity to submit written comments on the proposed Trash Amendments and the Draft Staff Report; the written comment period; and the dates for the public workshop and public hearing to receive oral comments and evidence regarding the proposed Trash Amendments. During the written public comment period, the State Water Board conducted a public workshop on July 16, 2014, and a public hearing on August 5, 2014, to solicit public comment and testimony regarding the proposed Trash Amendments and Draft Staff Report. The State Water Board is providing written responses to the written comment letters timely submitted and those late letters accepted for consideration.</p> <p>The regulations applicable to the State Water Board's certified exempt regulatory programs to comply with the California Environmental Quality Act provide the exclusive procedural requirements for the State Water Board's adoption of the proposed Trash Amendments. (23 Cal. Code Regs. §§ 3720-3780.) Additional public comment on the revised or added text contained in the proposed final Trash Amendments and SED is not required. Additional comment is required "only if recirculation would be required for an environmental impact report pursuant to California Code of Regulations, title 14, section 15088.5, in which case the board may limit any additional public comment to the significant new information contained in the recirculated Draft SED." (23 Cal. Code Regs. § 3779, subd. (e).) The recommended changes in the proposed final Trash Amendments and proposed Final Staff Report did not add "significant new information" and are responsive to prior extensive stakeholder input. As such the State Water Board is not providing a written comment period for the revisions made which constitute the proposed final</p>

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11.1	Add language to the proposed Trash Amendments indicating the permittees are in compliance with the receiving water limitation (water quality objective) so long as they are fully implementing Track 1 or Track 2.		Trash Amendments and proposed Final Staff Report, and written comments will not be considered. The public may provide oral comments to the revisions contained in the proposed final documents at the meeting at which the State Water Board will consider adopting the proposed final Trash Amendments and approving the SED.
11.2	The Los Angeles Regional Water Quality Control Board should be allowed to include permit provisions consistent with the Proposed Trash Amendments in areas where TMDLs exist if they desire without needing to reconsider the applicable TMDL(s).		Please see Responses to Comments 4.1 and 10.9.
11.3	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. The permittees are required to provide documentation as to the	e. <u>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</u>	The Los Angeles Water Board currently has the authority to reopen and consider existing trash TMDLs. The Trash Amendments provide direction to the Los Angeles Water Board to hold a public meeting to reconsider the scope of the TMDLs. The State Water Board does not intend to supersede the existing trash TMDLs with the adoption of the Trash Amendments, which expressly state that the trash control provisions contain therein do not apply to the waters within the jurisdiction of the Los Angeles Water Board for which trash TMDLs are in effect prior to the effective date of the Trash Amendments. (Ocean Plan Amendment at III.1.1.b; Part I ISWEBE at IV.A.1.b; see also Staff Report, Section 4.3.)  The Water Boards are highly supportive of stakeholder-based watershed planning efforts that manage of storm water as a resource. The State Water Board is prioritizing trash control as a priority across California. The State Water Board believes the framework of the Trash Amendments allows prioritization of trash control to be compatible with existing watershed plans priorities. Specifically, the Trash Amendments encourage the use of multi-benefit projects that treat multiple pollutants, including trash, while infiltrating storm water runoff. In addition to the Trash Amendments, the State Water Board will continue

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	<p>equivalency of the alternate land uses. It would be more efficient to allow the permittees to address the previously identified and Regional Board approved land uses without having to go through an additional and duplicative documentation procedure. Additionally, while the Proposed Trash Amendments provide flexibility for the permitting authority 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 be able to suffice as justification for jurisdictions to designate appropriate drainage areas as "non-priority" regardless of land use. The language should also provide flexibility to assign priorities based on metrics other than just land use if those metrics better address high trash generating areas.</p>	<p><u>scheme can be utilized in lieu of the priority land uses to comply with the Trash Amendments.</u>  <u>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 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 C.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).</u></p>	<p>to support multi-benefit projects and other sustainable alternative that infiltrate and treat storm water runoff through the Storm Water Strategic Initiative. Additionally, please see Response to Comment 4.4 for a discussion on "equivalent alternate land uses" to focus trash control to areas outside of "priority land uses" that generate higher amounts of trash. The State Water Board does not think the proposed language is necessary. (See Ocean Plan Amendment and Part I ISWEBE definition for "alternate equivalent land uses" within the "priority land uses" definition.)</p>

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11.4	<p>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) and Chapter III.L.2.a.(1) of the ISWEBE Plan and Ocean Plan, respectively]. This would trigger compliance requirements for a storm drain even if only a very small portion of a priority land use drains to the storm drain.</p>	<p>Recommendation: The Stakeholders recommend adding language to Chapter IV.B.3.a.(1)/IV.B.3.a.(2) and Chapter III.L.2.a.(1) of the ISWEBE Plan and Ocean Plan, respectively stating that permittees must address catchment areas where the priority land uses are greater than 25% of the total catchment area. Track 1: Install, operate and maintain full capture systems in their jurisdictions for all storm drains that captures runoff in catchment areas where <del>from one of</del> <del>more of the</del> priority land uses <u>comprise &gt;25% of the land area in the catchment in their</u> jurisdictions; or 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</p>	<p>MS4 Phase I and Phase II permittees with regulatory authority over priority land uses will be required to comply with the prohibition of discharge by with Track 1 or Track 2. Track 1, which sets the performance standard, specifies that implementing trash controls in "all storm drains that capture runoff from one or more of the priority land uses in their jurisdiction." "In their jurisdiction" means that trash controls, specifically inserting treatment controls, are focused on locations within the right-of-way and publically owned land.</p> <p>The Trash Amendments specify that the primary activities need to be on industrial, commercial, and mixed urban on developed parcels as defined in the Trash Amendments. (Ocean Plan Amendment and Part I ISWEBE at definitions of "industrial", "commercial", and "mixed-urban"). Trash is a priority pollutant and all discharges, regardless of size are considered significant. The Trash Amendments are already focusing efforts on trash control by requiring controls on only priority land uses. Further reduction of areas requiring control to only portions of priority land use areas would not be consistent with the goal of the Trash Amendments. The State Water Board does not think the proposed language is necessary. See Staff Report sections, 2.4.1, 4.5, and 4.6.</p>

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11.5	<p>The Proposed Trash Amendments provide flexibility to permitting authorities to revise the priority land uses as well as define new trash sources. However, the Proposed Trash Amendments do not require the permitting authorities to provide significant justification of the changes. Allowing the permitting authorities to impose more stringent requirements without criteria to justify such requirements contradicts the establishment of consistent statewide trash requirements. A statewide plan that gives broad discretion to regional permitting authorities often results in uneven implementation of the plan.</p>	<p>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 <del>from ea-e</del> <u>more of the priority land uses comprise &gt;25% of the land area within the catchment</u> <del>with</del> <u>such</u> <del>jurisdiction(s).</del></p>	<p>Contrary to what is asserted in the comment, the proposed Trash Amendments do not allow permitting authorities “to revise the priority land uses” or “define new land uses.” The Trash Amendments define “priority land uses” and provides that a permittee may apply to the permitting authority to implement the trash provisions in “alternative land uses.” (Ocean Plan Amendment and Part I ISWEBE at the Definitions section.)</p> <p>The Trash Amendments acknowledge that trash may be generated from locations or land uses outside of the priority land uses and may require trash controls. The Trash Amendments provide discretion to the permitting authority to determine that such locations or land uses generate “substantial amounts of trash” and require trash controls. (Ocean Plan Amendment at III.L.2.d; Part I ISWEBE at IV.A.3.d.) The permitting authority’s finding of “substantial amounts of trash” would be supported by its determination that</p>

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	<p>Recommendation: The Stakeholders recommend that the Proposed Trash Amendments should either eliminate the discretion or have very clear guidance on how the discretion should be used.</p>		<p>a permittee is causing or contributing to the violation of the statewide trash narrative water quality objective.</p> <p>The Trash Amendments would establish the framework for trash control across NPDES permits, WDRs, and waivers of WDRs. The Trash Amendments identify the trash control requirements which shall be incorporated into permits, WDRs, and waivers of WDRs, as applicable, due to permittee and discharger site-specific conditions. The discretion provided to permitting authorities within the Trash Amendments is fairly and adequately structured to reduce uneven implementation while providing flexibility necessary to address specific case-by-case circumstances (i.e., “substantial amounts of trash” and “alternative land uses.”) As a result, the State Water Board does not support the recommendation.</p>
11.6	<p>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 Ocean Plan, respectively, using alternate land uses equivalent to the defined Priority Land Uses. However, as written, the chapter references only allow the permittees to address the equivalent alternate land uses if utilizing Track 1. The references 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 for the Ocean Plan is incorrect. The reference reads Chapter III.J.2.a.1, while it should</p>		<p>Regarding the recommendation that “[t]he references [in the Trash Amendments] should be changed to allow the permittees to address the equivalent alternate land uses via Track 1 or Track 2,” the State Water Board agrees, pertinent revision has occurred in the proposed final Trash Amendments, and see Response to Comment 4.4.</p> <p>Regarding the recommended internal reference corrections, the State Water Board agrees and the Trash Amendments have been revised to reflect correct numbering and internal references for the Ocean Plan Amendment and Part 1 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries.</p>



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11.7	<p>read Chapter III.L.2.a.i.</p> <p>The Stakeholders recommend 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. In addition, remove "receiving waters" from Chapter IV.B.7.b.(5) and Chapter III.L.6.b.(5) of the ISWEBE Plan and Ocean Plan, respectively to read: "Has the amount of Trash in the MS4 decreased from the previous year? If not, explain why."</p>		Please see Response to Comment 4.6.
11.8	<p>The Stakeholders recommend 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.</p>		Please see Response to Comment 10.8.
11.9	<p>As drafted, the Proposed Trash Amendments would supersede existing stakeholder-based watershed planning efforts, without effectively determining, without validation, that trash is the highest priority constituent throughout the Calleguas Creek Watershed and</p>	<p>The Stakeholders recommend including language after Chapter IV.B.3.a of the ISWEBE Plan and Chapter III.L.2.a of the Ocean Plan that states: <u>A MS4 Permittee may request</u></p>	<p>See Response to Comment 10.7.</p> <p>The Water Boards are charged with protecting the beneficial uses of state waters from pollution and nuisance that may occur as a result of waste discharges in the region. The State of California, along with the State Water Board, recognizes that trash is a high priority pollutant that impairs the beneficial uses</p>

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	potentially requiring the refocusing of resources from stakeholder developed priorities.	<p><u>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.</u></p>	<p>of aquatic life and public health, causes an aesthetic nuisance, and reduces the economic value of California's recreation areas. The presence of trash in surface waters, especially coastal and marine waters, is a serious issue in California. Trash discarded on land is frequently transported through storm drains to waterways, shorelines, the seafloor, and the ocean. Statewide and local studies have documented the presence of trash in state waters and the accumulation of land-based trash in the ocean. Street and storm drain trash studies conducted in regions across California have provided insight into the composition and quantity of trash that flows from urban streets into the storm drain system and out to adjacent waters. Trash is one of the most easily recognized pollutants and is a controllable pollutant in storm water.</p> <p>The Water Boards are highly supportive of stakeholder-based watershed planning efforts that manage of storm water as a resource. The State Water Board is prioritizing trash as a priority pollutant across California. The State Water Board believes the framework of the Trash Amendments allows prioritization of trash control to be a compatible with existing watershed plans priorities. Specifically, the proposed Trash Amendments encourage the use of multi-benefit projects that treat multiple pollutants, including trash, while infiltrating storm water runoff. Watershed plans, such as Water Quality Improvement Plans, would allow for trash to be selected as a high priority water quality issue and provide adaptive management and monitoring of trash. The State Water Board does not support the recommendation.</p>
11.10	The Stakeholders recommend that a more extensive list of certified devices should be prepared prior to the adoption of the Proposed Trash Amendments. The Stakeholders also recommend refining the full-capture device certification process		<p>Please see Response to Comment 10.5.</p> <p>The Trash Amendments specify additional devices as explained in Response to Comment 10.5 and the State Water Board declines the recommendation to revise the Trash Amendment to specify that any full-capture device that meets</p>

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	to streamline the certification process as much as possible by, for example, indicate that any full-capture device that meets the stated criteria fulfills the certification requirement.		the stated criteria fulfills the certification requirement.
11.11	The Stakeholders recommend including language in the Proposed Trash Amendments to clarify that existing trash controls can be considered when determining compliance with the Trash Amendments.		Please see Response to Comment 10.7.  Additionally, existing controls may count as long as they reduce trash to achieve with full capture system equivalency. (See Ocean Plan Amendment and Part I ISWEBE definition of “full capture system equivalency.”) See Responses to Comments 4.6 and 6.2
11.12	The Stakeholders recommend the State Board adds additional language to clarify the intent of the Proposed Trash Amendments with respect to the development of future TMDLs. The Stakeholders recommend 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.		Please see Response to Comment 10.10.  The State Water Board does not support the proposed revision to the final Trash Amendments. Listing waters as impaired and placement in Category 5 or 4b occurs through separate board consideration and action over which U.S. EPA has review and final approval authority.

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11.13	<p>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.</p>	<p>There are incorrect reference sections in Appendix E 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.</p>	<p>The State Water Board agrees that the proposed draft Trash Amendments contained several incorrect internal references. Although differently than that recommended, the references have been corrected to accurately reflect the amendments as they comprise an amendment to the Ocean Plan and Part I of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries.</p>
12.1	<p>Numerous cities have already successfully demonstrated continual attainment of trash reduction well in excess of 80 percent from pre-TMDL levels, but have no guidance from the State or Regional Boards on what constitutes achievement of the final "zero" trash discharge. The proposed Amendments are an opportunity for the State Board to provide such guidance. We strongly request the "except for the Los Angeles River Watershed" wording be removed and (for cities with demonstrable trash reduction attainments) the Trash TMDL deadline be extended until after the Los Angeles Regional Board "reconsiders the scope of its Trash TMDL".</p>		<p>Please see Response to Comment 6.7.</p>
12.2	<p>The Amendments could be improved by allowing more flexibility on where BMPs (like catch basin screens and baskets) are installed. Trash surveys and Daily Generation Rate</p>		<p>Trash is a priority pollutant across California. The State Water Board agrees that the Trash Amendments should provide flexibility for permittees to determine the most effective and efficient methods and controls to control trash discharges from the areas that have trash generation rates. Therefore, the</p>

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	<p>studies have been conducted over the past few years and have clearly shown trash generation of land uses varies from community to community and even within different areas of the same community. High priority trash areas such as all commercial and industrial areas are too broad a definition. The goal should be to install the trash catching devices where they are really needed- irrespective of land uses. Using litter surveys (such as the Keep America Beautiful Survey) or Daily Generation Rate studies as described in the Los Angeles River Watershed Trash TMDL or the Minimum Frequency of Assessment and Collection (MFAC) should be used to identify land uses that are really generating trash. It may be beneficial to develop a standardized survey.</p>		<p>proposed Trash Amendments focus on a dual alternative "compliance track" approach to provide the flexibility to permittees to determine the most effective means of controlling trash while taking into consideration particular site conditions, types of trash, and the available resources for maintenance and operation. (Ocean Plan Amendment at III.L.2.a; Part I ISWEBE at IV.A.3.a.)</p> <p>The priority land uses are based on lessons learned and extensive data collected from permittees with existing trash controls, either a Trash TMDL or permit conditions. The priority land uses include five categories of land uses that generate high amounts of trash. (See Trash Amendments, Definitions section for "priority land uses.")</p> <p>The State Water Board recognizes that other land uses may generate higher rates of trash. To allow for these occurrences, the Trash Amendments include a provision for a MS4 permittee to focus on "equivalent alternate land uses" under both Track 1 and Track 2. (See Trash Amendments, Definitions section for "alternate equivalent land uses.")</p> <p>Quantification measures such as street sweeping, mapping, and visual trash presence surveys can be used to prioritize these land uses for Track 1 or Track 2 controls. The "equivalent alternate land uses" should provide the requested flexibility for trash control measures. See Trash Amendments, Definitions section for "alternate equivalent land uses.")</p>
12.3	<p>The Amendments imply, but need to be made clearer that the burden for control of these plastic pellets is on the manufacturer and transporter. The cities within the Los Angeles River Watershed are already required to capture trash larger than X inch, and any smaller would result in significant screen clogging issues which would in turn would result in</p>		<p>The Trash Amendments state: "This prohibition of discharge applies to the discharge of preproduction plastic by manufacturers of preproduction plastics, transporters of preproduction plastics, and manufacturers that use preproduction plastics in the manufacture of other products to surface waters of the State [...] ." (Ocean Plan Amendment at III.I.6.e; Part I ISWEBE at IV.A.2.e.) The Trash Amendments clearly provide that the prohibition applies to manufacturers and transporters of preproduction plastics who discharge into surface waters. The prohibition of discharge on preproduction</p>

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	flooding issues.		<p>plastics provides a clear enforcement mechanism for the Water Boards if there is a discharge of preproduction plastics to waters of the state. In event there is a discharge of preproduction plastics in a municipality, the Water Boards may be notified to follow with an investigation and necessary enforcement.</p> <p>All facilities with the potential to discharge preproduction plastics must continue to comply with the "Preproduction Plastic Debris Program" under Water Code section 13367(a) and the requirements in the IGP (Order No. 2014-0057-DWQ) to comply with the prohibition concerning preproduction plastics.</p>
13.1	<p>Requiring the reopening of the LA Trash TMDL to utilize the narrative WQO in the Proposed Trash Amendments would minimize potential future impacts after the final compliance date of the LAR Trash TMDL. In addition, this would allow for the statewide consistency the Proposed Trash Amendments aim to provide while ensuring that responsible parties in the Los Angeles River watershed are held to the same standard as those in the remainder of the state.</p>		<p>The Los Angeles River Watershed and Ballona Creek Trash TMDLs are nearing final compliance (September 30, 2016 and September 30, 2015, respectively) and have made extensive success in trash reductions. The proposed Trash Amendments do not direct a public meeting by the Los Angeles Water Board to reconsider the scope of those two trash TMDLs. (See Ocean Plan Amendment III.L.1 and Part I ISWEBE, Definitions, "Full capture system equivalency.") Additionally, please see Response to Comment 6.7.</p>
13.2	<p>The City feels the responsible parties of the LA Trash TMDL should be required to implement BMPs in priority land use areas consistent with the remainder of the state. Implementing BMPs in these areas would allow the City to focus resources to address areas generating trash rather than distributing resources throughout the</p>		<p>Please see Responses to Comments 6.7 and 13.1.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>City in areas that may not generate significant levels of trash. Implementing BMPs only in priority land use areas would also allow for the statewide consistency the Proposed Trash Amendments aim to provide. Further, it would allow the City to use scarce resources to meet other MS4 Permit and other TMDL obligations for constituents such as bacteria and metals.</p>		
13.3	<p>The City of Burbank (City) 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.</p>		<p>Please see Responses to Comments 4.1 and 10.9.</p>
13.4	<p>The City of Burbank recommends the LARWQCB should be allowed to include permit provisions consistent with the Proposed Trash Amendments in areas where TMDLs exist without needing to reconsider the applicable TMDL(s).</p>		<p>The Trash Amendments would apply to all surface waters in the state, with the exception of those waters within the jurisdiction of the Los Angeles Water Board that have trash TMDLs in effect prior to the Trash Amendments. The fifteen trash and debris TMDLs in the Los Angeles Region have more stringent provisions than the Trash Amendments. The Trash Amendments do not apply to existing trash TMDLs in the Los Angeles Region; however, the Trash Amendments direct the Los Angeles Water Board to reconsider the scope of its trash and debris TMDLs within one year of the Trash Amendments' effective date and focus its permittees' trash control efforts on high trash generation areas rather than all areas within each permittee's jurisdiction. The reconsideration would occur for all existing trash TMDLs, except for the Los Angeles River Watershed and Ballona Creek Trash TMDLs. Additionally, the Los Angeles Water Board has the authority to reconsider the scope of the existing trash and debris TMDLs in lieu of the Trash Amendments. Please see Response to Comment 6.7.</p>

Comment Letter	Comment	Recommended Language	Response
13.5	<p>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) and Chapter III.L.2.a.(1)/Chapter III.L.2.a.(2) of the ISWEBE Plan and Ocean Plan, respectively]. This would trigger compliance requirements for a storm drain even if only a very small portion of a priority land use drains to the storm drain. Recommendation: The City recommends adding language to Chapter IV.B.3.a.(1)/IV.B.3.a.(2) and Chapter III.L.2.a.(1)/Chapter III.L.2.a.(2) of the ISWEBE Plan and Ocean Plan, respectively stating that permittees must address catchment areas where the priority land uses are greater than 25% of the total catchment area.</p>		Please see Response to Comment 11.4.
13.6	<p>The Proposed Trash Amendments provide flexibility to permitting authorities to revise the priority land uses as well as define new trash sources (Chapter IV.B.3.d of the ISWEBE Plan and Chapter III.L.2.d of the Ocean Plan). However, the Proposed Trash Amendments do not require the permitting authorities to provide significant justification of the changes. Allowing the permitting authorities to impose more stringent requirements without criteria to</p>		Please see Response to Comment 11.5.



Comment Letter	Comment	Recommended Language	Response
	<p>justify such requirements contradicts the establishment of consistent statewide trash requirements. A statewide plan that gives broad discretion to regional permitting authorities often results in uneven implementation of the plan. Recommendation: The City recommends that the Proposed Trash Amendments should either eliminate the discretion or have very clear guidance on how the discretion should be used (e.g., the permitting authority must provide sufficient data to justify the addition of land uses).</p>		
13.7	<p>The City 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.</p>		<p>Please see Response to Comment 10.8.</p>
14.1	<p>The intent of this letter is to express our support for the comments of the Venture Countywide Stormwater Quality Program, the California Stormwater Quality Association (CASQA), and Calleguas Creek Watershed Stakeholders. In particular, based on our experience implementing requirements of the trash TMDL, we strongly support the use of the narrative water quality objective as proposed, which</p>		<p>The State Water Board is appreciative of the support for the narrative water quality objective and Track 2. Please see the Responses to Comment Letters 4, 11, and 75.</p>

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	<p>provides a clear, concise definition from which 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 Amendments.</p>		
14.2	<p>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.1.6 of the ISWEBE Plan and the 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 Tack 1 or Track 2 (Chapter IV.B.2.a and Chapter III.1.6.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.</p> <p>Recommendation: The City recommends adding language to the proposed Trash amendments indicating the permittees are in compliance with the receiving water</p>		<p>Please see Response to Comments 4.1 and 10.9.</p>

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14.3	<p>limitations so long as they are fully implementing Track 1 or Track 2.</p> <p>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 TMDLs 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</p>		Please see Responses to Comments 6.7 and 13.4.

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	<p>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 in areas where TMDLs exist if they desire without needing to reconsider the applicable TMDL(s).</p>		
14.4	<p>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. 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 the Chapter IV.B.3.a.1 and the 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 equivalent</p>	<p>e. If a regulated MS4 has a <u>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.</u> Additionally, a regulated MS4 may determine that areas within a priority land use 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</p>	<p>The State Water Board is pleased that the Ventura MS4 Permit (No. CAS004002) requires a prioritization of catch basin designated as consistently generating highest, moderate, and low volumes of trash. The permit requires that permittees submit a map or list of catch basins with their GPS coordinates and their designation. The map or list shall contain the rational or data to support designations. As this was due July 8, 2011, Ventura MS4 Permit permittees should have a detailed understanding and data to support where trash is generated at high levels. The focus of the proposed Trash Amendments is to control the discharge of trash from the areas within MS4 that generates the highest amounts of the trash. The proposed Trash Amendments focus on implementing trash controls in five "priority land use" types, namely high-density residential, industrial, commercial, mixed urban, and public transportation. (Ocean Plan Amendment and Part I ISWEBE definition for "priority land uses.") The State Water Board understands that trash generation may be higher in other locations than the five priority land use types. For those situations, a permittee can substitute priority land uses for alternate equivalent land uses. Approval of alternate equivalent land uses is at discretion of the permitting authority with supporting evidence. (See Ocean Plan Amendment and Part I ISWEBE definitions for "priority land uses.") For the Ventura MS4 Permit, the Los Angeles Water Board could approve determined alternative equivalent</p>

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	<p>of the alternate land uses. It would be more efficient to allow the permittees to address the previously identified and approved by Regional Water Board land uses without having to go through an additional 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 area. 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. Recommendations: 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 (see Recommended Language).</p>	<p><u>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 the 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 are required under Chapter IV.B.7 (III.L.6).</u></p>	<p>land uses for permittees based on information that was collected and presented as required in the Ventura MS4 Permit No. CAS004002. The State Water Board does not think the proposed language is necessary. Additionally, please see Response to Comment 11.3.</p>
14.5	<p>Part (6) of the Priority Land Uses definition from the ISWEBE Plan allows for 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</p>	<p>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</p>	<p>Please see Responses to Comments 4.4 and 11.13.</p>

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	<p>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.</p> <p>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.</p> <p>2) Modify the Chapter reference in Part (6) of the Priority Land Uses definition as such: ...comply under Chapter III.L.2.a.1 and Chapter III.L.2.a.2.</p>	<p>such: ... comply under Chapter III.JL.2.a.1 and Chapter III.L.2.a.2.</p>	
14.6	<p>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</p>		<p>Please see Response to Comment 4.6.</p>

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	<p>plans in the future. (The project is expected to be completed in 2017.) The City 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 effective stormwater trash control programs. While stormwater permittees may want to conduct receiving water monitoring to demonstrate performance, it should not be mandated. Recommendation: The City 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. Also, 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".</p>		
14.7	<p>The proposed Trash Amendments indicate that the State Water Board would take responsibility for the certification process for full capture</p>		<p>The State Water Board agrees that full capture system certification should be streamlined and consistent statewide. The purpose of the certification process is to provide consistency statewide in the systems that will be installed and</p>

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	<p>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 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. 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.</p> <p>Recommendation: The City recommends that a more extensive list of certified devices should be prepared prior to the adoption of the proposed Trash Amendments. The City also recommends refining the full-capture device certification process to streamline the certification process as much as</p>		<p>assurance that valuable resources are being spent on properly functioning full capture systems that achieve the goals of the Trash Amendments. Full capture systems with a new design should be certified by the Executive Director of the State Water Board. It is not intended for each installation to be certified, but for the full capture system design to be certified. Once the certification request letter is submitted to the Executive Director of the State Water Board, the request will be addressed in a timely manner to not impact permittee planning and installation. (See Ocean Plan Amendment and Part I ISWEBE definition “full capture system.”) Additionally, please see Response to Comment 10.5.</p>



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14.8	<p>possible.</p> <p>The City has implemented various trash control measures within the Calleguas Creek Watershed. 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 City recommends including language in the proposed Trash Amendments to clarify that existing trash controls can be considered when determining compliance with the Trash Amendments.</p>		Please see Response to Comment 10.7.
14.9	<p>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. Recommendation: The City recommends the State Board add additional language to clarify the intent of the proposed Trash Amendments with respect to the development of future TMDLs. We also recommend adding language to</p>		Please see Response to Comment 10.10.

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	<p>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.</p>		
15.1	<p>The City of Capitola supports:</p> <ul style="list-style-type: none"> <li>• The narrative water quality objective.</li> <li>• The option of developing and implementing regulatory source controls.</li> <li>• The potential for time extensions.</li> <li>• Use of priority land uses.</li> </ul>		<p>The State Water Board appreciates the support the narrative water quality objective and priority land uses. Regulatory source controls and time extensions have been omitted from the final proposed Trash Amendments. See also the General Response to Comment Letter 1 and Response to Comment 1.2.</p>
15.2	<p>Capitola requests the State Water Resources Control Board to provide all agencies more time to work together and develop a more flexible policy to address trash that is aligned with local planning efforts, instead of a 'one size fits all' approach.</p>		<p>The proposed final Trash Amendments have been crafted with intention of flexibility and statewide consistency to target trash control to locations that generate the highest amounts of trash. The dual track compliance approach provides the requested flexibility to not be a 'one-size fits all' approach. As proposed, the Trash Amendments provide for a two track compliance approach to achieve the effective removal of trash in locations that generate high trash rates. There are five priority land uses identified in the Trash Amendments include high-density residential dwellings, commercial, industrial, mix-urban, and public transportation stations. Areas such as low-density residential and suburban were not included in order to focus limited resources to areas that generate the most trash. Track 1 requires the installation of full capture systems on storm drains which capture runoff from priority land uses and that adhere to specified requirements. Track 2 permits municipalities to adjust to their available resources and provides flexibility to develop a diverse combination of treatment and institutional controls. Please see Responses to Comments 10.2, 10.7, and 11.9.</p>

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15.3	<p>Delay until a funding source is identified to provide for the implementation or ongoing maintenance of the structural controls required to capture trash. Limited local resources shifted from local priority efforts to address trash is a disconnect between local and statewide planning efforts.</p>		Please see Response to Comment 10.4.
15.4	<p>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.1.6 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.1.6.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). This could result in permittees being subject to a Trash TMDL for the receiving water, even if in compliance with permittees' MS4 Permit. Recommendation: The City</p>		Please see Response to Comments 4.1 and 10.9.

Comment Letter	Comment	Recommended Language	Response
	<p>of Capitola 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.</p>		
15.5	<p>As defined in the Proposed Trash Amendments, the predefined priority areas may not be appropriate for all jurisdictions and does not consider local knowledge of receiving water conditions and 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. The approach should allow for more local flexibility in this prioritization. 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</p>		Please see Responses to Comments 11.9 and 15.2.

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	<p>developed priorities.  Recommendation: The City of Capitola 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.</p>		
15.6	<p>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) and Chapter III.L.2.a.(1)/Chapter III.L.2.a.(2) of the ISWEBE Plan and Ocean Plan, respectively). This would trigger compliance requirements for a storm drain even if only a very small portion of a priority land use drains to</p>	<p>Recommendation: The City of Capitola recommends adding language to Chapter IV.B.3.a.(1)/IV.B.3.a.(2) and Chapter III.L.2.a.(1)/Chapter III.L.2.a.(2) of the ISWEBE Plan and Ocean Plan, respectively, stating that permittees must address</p>	<p>Please see Response to Comment 11.4.</p>

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	the storm drain.	<p>catchment areas where the priority land uses are greater than 25% of the total catchment area.</p> <p>(1) Track 1: Install, operate and maintain full capture systems in their jurisdictions for all storm drains that capture runoff in catchment areas where priority land uses comprise &gt;25% of the land area in the catchment; 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 capture runoff in catchment areas where priority land uses comprise &gt;25% of</p>	

Comment Letter	Comment	Recommended Language	Response
15.7	<p>The Proposed Trash Amendments, in Chapter IV.B.7.b and Chapter III.L.6.b of the ISWEBE Plan and Ocean Plan, respectively, require permittees implementing Track 2 to monitor 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 case other methods are appropriate (e.g. pounds of trash removed through a control measure). Recommendation: The City of Capitola recommends the State Water Board revise the language in the Proposed Trash</p>	<p>the land area within the catchment.</p>	<p>Please see Response to Comment 4.6.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>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.</p>		
15.8	<p>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. If additional language were included to clarify the intent of the Proposed Trash Amendments with respect to the development of future TMDLs, then 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 City of Capitola recommends that language be added to clarify the intent of 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.</p>		Please see Response to Comment 10.10.
16.1	<p>The Trash Amendment prioritizes areas solely based on land use designations. This approach</p>		<p>The State Water Board agrees that the Trash Amendments should provide flexibility for permittees to determine the most effective and efficient methods and controls to control trash</p>



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	<p>assumes that all areas within one land use category generate the same amount of trash. Local knowledge and experience shows that this is not the case, and other factors should be taken into consideration. Data available from street sweeping, storm drain cleaning, and other information should be used to prioritize high-trash volume areas in each jurisdiction. Identifying actual priority areas will result in higher efficiency and effectiveness and will achieve the goals at the shortest possible time. Recommendation: The City of Chula Vista recommends that flexibility be provided for jurisdictions to use available data to prioritize high-trash volume areas of their jurisdiction.</p>		<p>discharges from the areas that have trash generation rates. Therefore, the Trash Amendments focus on a dual alternative "compliance track" approach to provide the flexibility for permittees to determine the most effective means of controlling trash while taking into consideration particular site conditions, types of trash, and the available resources for maintenance and operation. The priority land uses are based on lessons learned and extensive data collected from permittees with existing trash controls, either a Trash TMDL or permit conditions. The priority land uses include five categories of land uses that generate high amounts of trash. The State Water Board recognizes that other land uses may generate higher rates of trash. To allow for these occurrences, the Trash Amendments include a provision for a MS4 permittee to focus on "equivalent alternate land uses" under both Track 1 and Track 2. Quantification measures such as street sweeping, mapping, and visual trash presence surveys can be used to prioritize these land uses for Track 1 or Track 2 controls. (See Ocean Plan Amendment and Part I ISWEBE definition for "alternate equivalent land uses" within the "priority land use" definition.)</p>

Comment Letter	Comment	Recommended Language	Response
16.2	<p>High-density residential areas are categorized as priority land uses. This category includes apartment and condominium complexes. While more people per acre live in these types of residential communities than single family homes, there is generally much more strict oversight on the maintenance and management of common areas and private streets by homeowner associations and management companies. Residents are required to comply with strict community regulations and pay for the community's maintenance costs. Therefore, they are more sensitive about keeping the community clean in order to avoid higher homeowner association fees. Recommendation: The City of Chula Vista recommends that the High Density Residential category be deleted from the list of Priority Land Uses.</p>		<p>The State Water Board recognizes that each priority land use across the state will generate trash a varying rates due to site specific conditions. To allow for these occurrences, the proposed Trash Amendments include a provision for a MS4 permittee to focus on "equivalent alternate land uses" under Track 1. (See Ocean Plan Amendment and Part I ISWEBE definition for "equivalent alternate land uses.") Quantification measures such as street sweeping, mapping, and visual trash presence surveys can be used to prioritize these land uses. The "equivalent alternate land uses" should provide the requested flexibility for trash control measures. Additionally, if the City of Chula Vista could demonstrate to the applicable permitting authority that existing trash controls achieve the prohibition of discharge and full capture system equivalency, then those locations could be deemed in compliance with the prohibition of discharge for trash.</p>
16.3	<p>Clarification is needed to enable jurisdictions to evaluate the equivalency of other treatment controls, institutional controls, and multi-benefit projects; and ensure that they will meet compliance if they choose the Track 2 option. Uncertainty about this issue will expose jurisdictions to enforcement and/or legal action. Recommendation: The City of Chula Vista recommends adding language</p>		<p>A central aim of the Trash Amendments is to focus trash controls to areas with high trash generation rates utilizing a dual alternative compliance track approach (i.e., Track 1 and Track 2). The two tracks allow NPDES storm water permittees to determine and implement the most effective means of controlling trash while taking into consideration particular site conditions, types of trash, and the available resources for maintenance and operation. Track 1 focuses solely on utilizing full capture systems to capture trash greater than 5 mm at the storm drain before storm water enters the receiving water. As successfully demonstrated across California, full capture systems are highly effective at capturing trash when operated</p>

Comment Letter	Comment	Recommended Language	Response
	to clarify how jurisdictions are to evaluate equivalency with Track 1 if they decide to choose Track 2.		<p>and maintained properly.</p> <p>While the State Water Board recognizes the effectiveness of full capture systems, there are site-specific conditions in a municipality that may make the installation and operation of full capture systems a less achievable option. Additionally, the State Water Board recognizes that there are a wide variety of available mechanisms to control trash such as partial capture systems, institutional controls, and multi-benefit projects. Thus, Track 2 is intended to allow permittees to utilize the full range of mechanisms to control trash in order to achieve equivalent performance Track 1. It is the State Water Board's intent that full capture systems would be selected first and installed where not cost prohibitive and supplemented with institutional controls and other treatment controls from existing permit requirements. To clarify this intent, the following language has been included in Track 2: "It is; however, the State Water Board's expectation is that the MS4 permittee will elect to install full capture systems where such installation is not cost-prohibitive." (See Ocean Plan Amendment III.L.2.a.2; Part I ISWEBE IV.A.3.a.2.)</p>
16.4	Monitoring is expensive and should not constitute a significant portion of the program total costs. While monitoring is necessary to assess the effectiveness of the program, it does not by itself result in cleaner water. A cost-effective monitoring protocol should be developed based on simple visual observations, which allows more of the limited resources to be spent on actual treatment control measures. Recommendation: The City of Chula		<p>Additionally please see Response to Comments 4.6 and 6.2.</p> <p>Please see Response to Comment 4.6.</p>

Comment Letter	Comment	Recommended Language	Response
16.5	<p>Vista recommends allowing other methods of assessment in addition to a cost-effective monitoring program to determine compliance.</p> <p>Implementation of the Trash Amendment will impose significant costs on jurisdictions. The State Water Board can include provisions in the Trash Amendment to allow Regional Water Boards to provide credit to jurisdictions to offset some of their obligations toward MS4 Permit requirements and compensate for the additional costs. Recommendation: The City of Chula Vista recommends the addition of language to allow Regional Water Boards to provide credit to jurisdictions to offset some of their MS4 permit requirements and compensate for additional costs.</p>		<p>The economic analysis for the proposed Trash Amendments estimated the incremental annual cost to comply with the requirements of the proposed Trash Amendments ranged from \$4 to \$10.67 per year per capita for MS4 Phase I NPDES permittees and from \$7.77 to \$7.91 per year per capita for smaller communities regulated under MS4 Phase II permits (See Final Staff Report Appendix C). The State Water Board understands that permittees have other permit requirements. With the Trash Amendments, the State Water Board recognizes that trash is a priority pollutant statewide. In modifying, re-issuing, adopting new NPDES permits, the permitting authority must prioritize trash as a priority pollutant and the assessment of other permit requirements is at the discretion of the permitting authority.</p>
17.1	<p>As drafted, they would potentially require Bay Area municipalities to inefficiently redirect limited public resources away from activities currently aligned with trash reduction provisions in the MRP.</p>		<p>Please see Response to Comment 4.2.</p>
17.2	<p>Provide consistency with the proposed narrative Water Quality Objective by including language in the trash discharge prohibitions to specify that the trash discharges being prohibited and controlled are "in amounts that cause impairment</p>		<p>Please see Response to Comments 4.1 and 10.9.</p>

Comment Letter	Comment	Recommended Language	Response
17.3	<p>of beneficial uses or conditions of nuisance in receiving waters."</p> <p>Provide an alternative (i.e., Track 3) to allow for compliance to be achieved via continued implementation of the trash-specific provisions in the MRP.</p>		Please see Response to Comment 4.2.
17.4	<p>Provide "certification" for all devices that were installed or are in the process of being installed in the Bay Area if they were previously accepted by SF Bay Regional Board staff as meeting the design criteria for full capture systems.</p>		Please see Response to Comment 4.3.
17.5	<p>We strongly urge the State Board to consider the recommendations proposed by BASMAA and allow SCVURPPP permittees to continue the process of reducing trash from MS4 discharges in manner that is consistent with the Bay Area framework designed to achieve water quality goals outlined in the MRP which are consistent with the proposed amendments.</p>		Please see the Response to Comment Letter 4.
18.1	<p>The City of Del Mar requests that a workshop be held at a Southern California location.</p>		<p>Several focused stakeholder meetings were held in southern California. However, the State Water Board will not be holding a public workshop in southern California.</p>

Comment Letter	Comment	Recommended Language	Response
18.2	<p>The City of Del Mar supports the staff recommendation in the Draft Staff Report to combine definitions from Basin Plans, California Government Code and the California Water Code to define trash. However, the City is concerned with “natural materials” such as leaf litter and pine needles being included in the trash definition.</p> <p>Recommendation: Language changes to definition of Trash in Appendix I, Definition of Terms, of the Ocean Plan and Appendix A, Glossary, of the Inland Surface Waters, Enclosed Bays, and Estuaries of California (ISWEBE) Plan.</p>	<p>Trash means 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 <del>or natural</del> materials.</p>	<p>The State Water Board intends "natural materials" in the definition of trash to refer to production, manufacturing or processing operations as consistent with the California Government Code's definition of "litter." This specifically excludes natural materials, such as leaf litter and pine needles. (See Staff Report Section 4.1 Issue 1) The State Water Board does not think the proposed language is necessary.</p>
18.3	<p>The City of Del Mar does not support having a numeric water quality objective of zero. The City of Del Mar supports using a narrative WQO for trash as it is a more practical means of implementing a prohibition of discharge. Recommendation: The City of Del Mar supports the language in Chapter II.C.5 of the Ocean Plan and Chapter III.B of the ISWEBE Plan: "Trash shall not accumulate in ocean waters, along shorelines or adjacent areas in amounts that adversely affect beneficial uses or cause nuisance."</p>		<p>The State Water Board agrees with this comment. In addition, please see Response to Comment 6.1.</p>

Comment Letter	Comment	Recommended Language	Response
18.4	<p>The Trash Amendments should not 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.</p> <p>Recommendation: The City of Del Mar would support adding a requirement to Trash Amendments where jurisdictions without waters impaired for trash would still be required to conduct education and outreach efforts or if currently conducting, continue current trash control strategies. The City of Del Mar also suggest edits to the Trash Amendments, Chapter III.L. 1.b of the Ocean Plan and Chapter IV.B. 1.b of the ISWEBE Plan (see Recommended Language).</p>	<p>These Trash Provisions apply to all surface waters of the State that are listed on the 303(d) list as impaired for trash, with the exception of those waters within the jurisdiction of the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) for which trash Total Maximum Daily Loads (TMDLs) are in effect prior to the effective date of these Trash Provisions; provided, however, that: (3) Jurisdictions without listings on the 303(d) list for trash, shall conduct institutional control efforts or if currently conducting, continue trash control strategies.</p>	<p>Trash is a pervasive pollutant impairing the beneficial uses of California surface waters. Trash in waterways, on beaches, and in the ocean poses threats to aquatic life, wildlife, public health, recreation, fishing and other economic activities. The approach of the proposed Trash Amendments is not only reactive, but also preventive in addressing trash in state waters. The intent of the Trash Amendments is to protect the beneficial uses of California's surface waters from trash, regardless of being 303(d) listed for trash. The State Water Board understands that trash enters a water body via multiple pathways, and storm water is a dominate transport pathway. Trash is a controllable priority pollutant, especially in storm water. The fifteen existing trash and debris TMDLs in the Los Angeles Region have demonstrated that full capture systems are a proven and effective best management practice to remove trash from storm water. The Trash Amendments aim to focus trash controls on areas with high trash generation rates, as specified by the priority land uses for Phase I and Phase II MS4 permittees. In addition to trash controls in priority land uses, the Trash Amendments propose to allow a permitting authority to make a determination that other specific land uses or locations to generate substantial amounts of trash and require Track 1 or Track 2 trash controls. The State Water Board does not think the proposed language is necessary.</p>
18.5	<p>The City of Del Mar supports limiting the application of the Trash Amendments to only those water bodies that are listed on the 303(d) list as impaired for trash. The City of Del Mar supports that the Trash Amendments apply to "high trash generating areas" when those areas include water bodies that are listed on the 303(d) list as impaired for trash. The City of Del Mar believes</p>	<p>Chapter III. 1.b of the Ocean Plan and Chapter III.B. 1.b of the ISWEBE Plan: These Trash Provisions apply to all surface waters of the State listed on the 303(d) list as impaired for trash, with the exception of those waters within the</p>	<p>Please see Response to Comments 11.4 and 18.4.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>permittees should have flexibility in defining "high trash generating areas" in their respective jurisdiction to allow catchment systems to be placed in areas with the greatest impact. Recommendation: Edits to the Trash Amendments (see recommended language).</p>	<p>jurisdiction of the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) for which trash Total Maximum Daily Loads (TMDLs) are in effect prior to the effective date of these Trash Provisions; provided, however, that: Chapter III.L.2.a of the Ocean Plan and Chapter IV.B.3.a of the ISWEBE Plan: (1) Track 1: Install, operate and maintain full capture systems <u>in their jurisdictions</u> for all storm drains that captures runoff in catchment areas where <del>from one of</del> <u>more of the</u> priority land uses <u>comprise &gt;25% of the land area in the catchment in their jurisdictions</u>; 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</p>	



Comment Letter	Comment	Recommended Language	Response
18.6	<p>The City of Del Mar believes that the time schedule for compliance with the Trash Amendments should apply only to those waters listed on the 303(d) list for trash. When a water body becomes impaired for trash and is listed on the 303(d) list that would trigger the time schedule for full compliance with the Trash Amendments. Recommendations: The City of Del Mar believes that a better time schedule for implementation of the Trash Amendments would be for the ten year time clock to begin after the permittee officially submits their notice of choosing Track 1 or Track 2. This would prevent the ten year time clock from starting during the time period where the City is</p>	<p>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 capture runoff in catchment areas where <del>from one or more of the</del> priority land uses comprise &gt;25% of the land area within the catchment <del>within such</del> jurisdiction(s).</p> <p>Chapter III.L.4.a.(3) and (4) of the Ocean Plan and Chapter IV.B.5.a.(3) and (4) of the ISWEBE Plan: • NPDES Permits Regulating MS4 Permittees that have Regulatory Authority over Priority Land Uses and that have waters listed on the 303(d) list as impaired for trash. • For MS4 permittees that elect to comply with Chapter III.L.2.a.1. (Track 1), full compliance shall occur within ten (10) years of the permittee's notice indicating which track</p>	<p>Please see Response to Comment 18.4. In addition, to allow for sufficient time to plan for implementing effective controls, the State Water Board is providing 18 months to develop an implementation plan prior to the beginning of the ten year compliance schedule, which coincides with the effective date of the implementing permit. (See Ocean Plan Amendment III.L.4.1 and Part I ISWEBE IV.A.5.1.) The fifteen year maximum deadline from the effective date of the Trash Amendments provides five years for the permitting authority to incorporate the Trash Provisions into an implementing permit. (See Ocean Plan Amendment III.L.4.2-3 and Part I ISWEBE IV.A.5.2-3.) The State Water Board does not think the proposed language is necessary.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>researching and developing a trash program compliant with the Trash Amendments. The City of Del Mar also suggests edits to the Trash Amendments (see recommended language).</p>	<p><u>was chosen 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 an average of ten percent (10%) of the full capture systems installed every year. In no case may the final compliance date be later than fifteen (15) years from the permittee's written notice indicating which track was chosen effective date of these Trash Provisions.</u> • For MS4 permittees that elect to comply with Chapter III.L.2.a.2. (Track 2), full compliance shall occur within ten (10) years of the permittee's notice indicating which track was chosen 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</p>	

Comment Letter	Comment	Recommended Language	Response
18.7	The City of Del Mar supports the option of time extensions for employing regulatory source controls.	reductions of ten percent (10%) per year. In no case may the final compliance date be later than fifteen (15) years from the permittee's written notice indicating which track was chosen <del>effective date of these</del> Trash Provisions.	Please see Response to Comment 4.5.
18.8	The City of Del Mar currently implements a comprehensive monitoring program and believes that monitoring requirements should be tied to WQIP monitoring to conserve implementing resources and avoid creating an additional and/or separate monitoring program. Due to the lack of waters impaired for trash, the City of Del Mar supports implementing the Trash Amendments and associated proposed monitoring requirements only if a water body becomes impaired for trash and is subsequently listed on the 303(d) list.		Please see Response to Comment 11.9. As the proposed Trash Amendments will be implemented through respective NPDES permits. Implementation provisions and monitoring and reporting requirements could be incorporated as part of Water Quality Improvement Plans, if in align with the Trash Amendments and approved by the permitting authority.

Comment Letter	Comment	Recommended Language	Response
19.1	<p>The Proposed Trash Amendments would impose new State requirements on local agencies without identifying a funding reimbursement source. Prior to adoption of the proposed policy, the State Water Resources Control Board must first identify a reliable funding source to reimburse local jurisdictions for the cost of the new requirements, as mandated by the California Constitution.</p>		Please see Response to Comment 10.4.
19.2	<p>The Proposed Trash Amendments are premised upon a postulation that trash is an acute problem in all waters, and requires specific actions by all municipalities that discharge to those waters. Alternatively, the Proposed Trash Amendments should address trash in a manner similar to other pollutants in which actions would be required only after impairment has been documented or a water quality objective has been exceeded and the regulated entity has contributed to that impairment or objective exceedance.</p>		Please see Response to Comment 18.4.

Comment Letter	Comment	Recommended Language	Response
19.3	<p>The rigid implementation requirements expressed in the Proposed Trash Amendments do not allow flexibility for local resources to be used efficiently and to address "real world" problems. Alternatively, if a problem (as defined by a documented impairment, see comment #2 above) is identified, regulated entities should be allowed to address trash issues consistent with their local planning and implementation strategies to meet the defined narrative water quality objective. A narrative water quality objective for trash is supportive of the State Water Resources Control Board's goal of statewide consistency, and as such, should be fully developed for incorporation into the Proposed Trash Amendments.</p>		<p>The State Water Board agrees. Please see Response to Comment 6.1.</p>
20.1	<p>The Proposed Amendments do not identify a funding source for this, so presumably the City will be required to fund it out of its budget. Similar to other jurisdictions, the City is still recovering from the economic downturn and this would be a significant burden to city finances unless permanent alternative funding sources are established.</p>		<p>Please see Response to Comment 10.4.</p>
20.2	<p>The City requests that the State Board incorporate more flexible language that will keep trash as a legitimate concern but allow cities to address at an appropriate level for</p>		<p>Please see Response to Comment 11.3.</p>

Comment Letter	Comment	Recommended Language	Response
20.3	<p>their watershed and their population. Escondido has very few locations with trash or debris concerns. Recommendation: the State Water Board include language which will allow trash assessment data to be used to modify the City's approach, regardless of priority land uses. While the City appreciates the intent of Track Two to add such flexibility to the Proposed Trash Amendments, the proposed language is not clear enough as to provide guidance for the City's situation.</p> <p>As San Diego Region municipalities embark on Water Quality Improvement Plans for all Region 9 watersheds, the City is concerned that the Proposed Trash Amendments do not acknowledge the current watershed management efforts underway, including pollutant prioritization, goal setting, and strategy development. The watershed planning process allows municipalities to focus scarce resources on solutions to address the highest water quality priorities. The Proposed Trash Amendments should be modified to recognize and integrate with such efforts, perhaps with a third compliance track.</p>		Please see Response to Comment 11.9.
20.4	<p>The City requests that a standard methodology for municipalities to measure trash is established in the Trash Amendments, as no such</p>		Currently, there are several approaches to monitoring trash in California, for example the Minimum Frequency of Assessment and Collection Program, the Daily Generation Rate, and the Rapid Trash Assessment. In addition, there are potential new

Comment Letter	Comment	Recommended Language	Response
	<p>guidance currently exists. Furthermore, the City anticipates that much of the data collection required for this effort will come from MS4 and catch basin insert cleaning and maintenance which removes a significant amount of trash &amp; debris from the environment. The equipment used to perform this work (typically a vactor truck) removes an intermingled volume of trash, plant debris, and sediment from catch basins. It is of utmost importance that the State and Regional Water Boards recognize that it is not feasible to separate the items within catch basins for separate tracking and reporting purposes</p>		<p>methodologies, such as outcomes from the Proposition 84 Grant project Tracking California's Trash. Because there will be a variety of implementation approaches, the monitoring and reporting requirements should offer flexibility for permittees to demonstrate compliance with the prohibition of discharge for trash. However, a level of statewide consistency in monitoring and reporting also needs to exist. The balance between the needs for consistency and flexibility is achieved through standardized objectives in the monitoring program. As a result, the Trash Amendments aim to establish minimum monitoring and reporting provisions, while providing the option for Water Boards to include more extensive provisions in their implementing permits. This approach provides flexibility to Water Board permit writers to design monitoring programs that reflect the compliance methods elected by permittees along with regional characteristics. For statewide consistency, all monitoring programs would be striving to answer similar fundamental questions. (See Final Staff Report at Sections 2.7 and 4.10, Ocean Plan Amendments III.L.5, and Part I ISWEBE IV.A.5.)</p>
20.5	<p>City's engineers are concerned about the full capture size limit of 5 millimeters (mm). Vegetation and debris transported in large volumes during storm events cause blockages in trash capture devices and may cause localized flooding. This consideration increases the cost of installing full trash capture devices because underground catch basins may need to be resized to accommodate potential flows.</p>		<p>Full capture systems have been successfully installed and operated in California for over ten years. While leaf litter does accumulate, this can be minimized with routine cleaning and maintenance. Additionally, full capture systems provide a bypass route when runoff flow extends the design capacity, in order to alleviate potential flooding concerns. (See Final Staff Report in Section 5.1.)</p>

Comment Letter	Comment	Recommended Language	Response
20.6	<p>The Proposed Trash Amendments should clarify whether municipalities would be able to switch tracks throughout the course of implementation. This may provide a buffer should practical experience, budget constraints or economic considerations force the city to reassess, and for example, purchase and installation of full capture devices under Track 1.</p>		<p>The State Water Board is appreciative of this concern. The ability to change Tracks would be possible at the discretion of the permitting authority after the effective date of the first implementing permit. If a permittee changes Tracks, then permitting authority would likely need to modify the permit requirements to be in compliance with the implementation provisions in the Trash Amendments. For example, if a permittee begins implementation under Track 1 and switches to Track 2, then the permittee would be responsible for achieving the Track 2 requirements, such as submission of an implementation plan, and monitoring and reporting.</p>
20.7	<p>The City views these amendments as an unfunded mandate. The implementation costs alone are onerous, and the maintenance of capture devices will be an ongoing and even larger expense than installation costs. The State should commit to offer implementation grants for small and medium-sized jurisdictions during the initial period (ten years after incorporation into Regional MS4 Permits).</p>		<p>Please see Responses to Comments 10.4 and 29.4.</p>
20.8	<p>The City recommends that comprehensive recommendations regarding full capture devices are presented as part of the guidance. It will provide reassurance to the City that a method for full capture accepted in another region can be transferred to our region. This will avoid burdensome and lengthy approval processes and reduce redundancy across different Regional Boards.</p>		<p>The State Water Board intends for resources to be efficiently directed towards effective treatment controls to capture and remove trash. The proposed Final Staff Report specifies the full capture systems currently certified by the Los Angeles Water Board and listed in Appendix I of the Bay Area-wide Trash Capture Demonstration Project, Final Project Report (May 8, 2014) that will satisfy the requirements of the Trash Amendments. (See Final Staff Report in Sections 2.8 and 5.1, Ocean Plan Amendment and Part I ISWEBE definition for “full capture system equivalency.”)</p>



Comment Letter	Comment	Recommended Language	Response
20.9	<p>The City is concerned that sources of trash from non-MS4 sources will be attributed to the City's compliance responsibility under these amendments. Such sources include: littering on highways under Caltrans management homeless encampments and/or dumping directly in receiving waters, Phase II MS4 properties, and School District properties. The Proposed Trash Amendments should address how material from these other sources will be accounted for.</p>		<p>Please see Response to Comment 10.6.</p>
20.10	<p>Section 2 of the Draft Staff Report states "No Other Agency approvals are expected to be required to implement the Proposed Amendments." When the Sediment Quality Objectives were adopted, EPA Region XI had to approve the amendment. Why is that not true with these amendments?</p>		<p>The proposed Trash Amendments and Draft Staff Report discussed the actual implementation of the Trash Amendments by permittees when it stated that no other agencies are expected to be required to implement the Trash Amendments (i.e., once the Trash Amendments become final there are no other agencies that have separate jurisdiction over the action). The proposed Trash Amendments and Draft Staff Report did not detail how the Trash Amendments "become final". After the State Water Board adopts the Trash Amendments, the Final Staff Report will be submitted for review of the regulatory record to the California Office of Administrative Law and final approval from the U.S. Environmental Protection Agency. The Trash Amendments become effective following approval by the U.S. Environmental Protection Agency. Accordingly, Section 2.12 has been revised in the proposed Final Staff Report.</p>

Comment Letter	Comment	Recommended Language	Response
20.11	<p>On page 65 of Section 4 in the Proposed Amendments the trash definition should include the size minimum of 5 mm similar to that as presented in Consideration 3 of Section 4.1. Inclusion of a 5 mm minimum would provide consistency with compliance requirements for full capture devices.</p>	<p>"Trash means all improperly discarded solid material over 5 mm in size 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."</p>	<p>The State Water Board disagrees that there should be a size limitation on the definition of trash. A size limitation doesn't address small pieces of trash, such as preproduction plastics and small pieces of trash, which can adversely impact beneficial uses. (See the Final Staff Report Section 4.1.)</p>
20.12	<p>III.1.2.d of the Proposed Trash Amendments 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 Amendments if the areas they are required to address change while they are attempting to address those areas. We recommend adding language to the Proposed Amendments requiring a permitting authority to consider revisions to the final compliance date of the Proposed Amendments if new priority land uses are added during</p>		<p>Trash is a priority pollutant across California. The Trash Amendments aim to focus trash controls on areas high trash generation rates, as specified by the priority land uses for Phase I and Phase II MS4 permittees. In addition to trash controls in priority land uses, the Trash Amendments propose to allow a permitting authority to make a determination that other specific land uses or locations to generate substantial amounts of trash and require Track 1 or Track 2 trash controls. The Trash Amendments proposed a ten year compliance schedule for Track 1 and Track 2; however, there was not a time schedule for specific land uses and locations designed as high trash generating. Additional language has been provided in the proposed final Trash Amendments specifying that a permitting authority can set a time schedule for the specific land use and locations determined to generate substantial amounts of trash where the final compliance can be no later than ten years from the determination. (Ocean Plan Amendment III.L.4.a.5 and Part I ISWEBE IV.A.5.a.5.)</p>

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20.13	<p>the duration of the compliance period.</p> <p>As drafted, the Proposed Amendments would supersede existing stakeholder-based watershed planning efforts, effectively determining, without validation, that trash is the highest priority and potentially requiring the refocusing of resources from stakeholder developed priorities.</p>	<p>We recommend including language in Chapter IV.B.3of the ISWEBE Plan and Chapter III.L.2.a of the Ocean Plan stating: <u>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.</u></p>	<p>Please see Response to Comment 11.9.</p>

Comment Letter	Comment	Recommended Language	Response
20.14	<p>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. This would trigger compliance requirements for a storm drain even if only a very small portion of a priority land use drains to the storm drain.</p>	<p>Recommendation:  Recommend adding language to Chapter IV.B.3.a.(1)/IV.B.3.a.(2) and Chapter III.L.2.a.(f)/Chapter III.L.2.a.(2) of the ISWEBE Plan and Ocean Plan, respectively stating that permittees must address catchment areas where the priority land uses are greater than 25% of the total catchment area. Track 1: Install, operate and maintain full capture systems in their jurisdictions for all storm drains that captures runoff in catchment areas where priority land uses comprise &gt;25% of the land area in the catchment; or 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</p>	<p>Please see Response to Comment 11.4.</p>

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		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 capture runoff in catchment areas where priority land uses comprise >25% of the land area within the catchment.	
20.15	<p>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 case other methods are appropriate (e.g. pounds of trash removed through a control measure). Numeric trash data, no matter the metric (pieces, weight, volume), are an unreliable way to determine BMP effectiveness. Monitoring programs in the Los Angeles Region have shown that</p>		Please see Response to Comment 4.6.

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	trash accumulation is highly variable leading to an inability to discern any trends in data. Permittees must have the flexibility to identify non-numeric monitoring measures to demonstrate effectiveness.		
21.1	Additional time for the comment period.		The State Water Board did not lengthen the 55-day comment period because it also held a public workshop in the midst of the comment period to provide an opportunity to address concerns, clarify issues, and answer questions.
21.2	The State of California needs to provide a source of funding for Cities to comply with the Proposed Trash Amendments. The City does not have a drainage fee/utility and as such, 100% of the stormwater management program costs are funded by the General Fund and impact fees. Prop 218 currently precludes the City from establishing a fee for stormwater management activities therefor increased costs must be taken from budgets for other programs and services (General Fund). This is not the time to put such an administrative burden on cities and cities cannot afford to comply with these unfunded mandates. To put this into context, the City is currently only able to budget approximately \$200,000 per year on storm drain improvement projects. The capital cost to meet the Proposed Trash Amendment requirements will require approximately an additional		Please see Responses to Comments 10.4 and 29.4.

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	<p>\$200,000 per year. Likewise, the City is currently only able to budget approximately \$400,000 per year for storm drain system maintenance activities and street cleaning activities. The increased maintenance cost to meet the Proposed Trash Amendment requirements will require approximately an additional \$650,000 per year by the tenth year of the program. The City recognizes the water quality benefits of reducing trash, however the costs to comply exceeds our funding capability. Recommendation: The State must assist with funding for those requirements.</p>		
21.3	<p>Due to the significant cost to comply with the Proposed Trash Amendments, as currently written, we are concerned that much of our limited resources will be taken away from current efforts to reduce our target pollutants, to implementing trash removal BMP's in many areas that are not generating significant amounts of trash. Recommendation: The Proposed Trash Amendments allow cities to evaluate areas in question and provide the Regional Water Boards with the authority to approve an area exemption if the City has demonstrated that the area in question generates trash at rates that are significantly lower than estimated for the priority land use</p>		<p>Trash is a priority pollutant across California. A dual alternative "compliance Track" approach tailored to each NPDES storm water permit category would provide flexibility to permittees to determine the most effective means of controlling trash while taking into consideration particular site conditions, types of trash, and the available resources for maintenance and operation. The priority land uses are shown to be areas that generate significant amounts of trash and would thereby be the focus of limited resources. With the "equivalent alternate land uses," a permittee can exchange priority land uses shown to be low trash generating with alternative areas shown to be high trash generator. (See Ocean Plan Amendment and Part I ISWEBE definition for "priority land uses.") Therefore, limited resources are being applied to the areas with the highest trash generating rates.</p>

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	listed.		
21.4	Supports the comments of CASQA and the Statewide Stormwater Coalition.		Please see the Responses to Comment Letters 10 and 68.
22.1	High-density residential land use with at least 10 developed dwelling unit/acre results in focusing on single family. High-density residential land use should be defined at equal to or greater than five dwelling units per building.		The proposed final Trash Amendments continue to be defined with at least 10 dwelling units per acre. (See Ocean Plan Amendment and Part I ISWEBE definition for "priority land use.")
22.2	The commercial land use definition should be refined to focus on commercial uses that have the potential to produce trash (such as fast food or take-out restaurants, retail and food markets) and exempt professional and office uses that only provide services.		The State Water Board disagrees that the definition of commercial should be modified as it focuses on the "sale or transfer of goods". The Trash Amendments do provide the ability to substitute a priority land use for an alternate land use. The alternate equivalent land uses allows for the situation to exchange parts of commercial for other high trash generating land uses. (See Ocean Plan Amendment and Part I ISWEBE definition for "priority land uses.")
22.3	The definitions Priority Land Uses are unnecessarily broad and will mandate storm drain retrofits in wide areas of low trash generation. Recommendation: To address the need for better tailored priority area definitions and the inherent variability of development-related trash generation across the state, the City recommends a process whereby municipalities are able to propose modifications to high priority areas to focus on high-trash generating areas/land uses/development types based on site-specific documentation, such as catch basin		Please see Response to Comment 12.2.



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22.4	<p>cleaning data or trash generation studies.</p> <p>If the City implemented Track 1, full capture devices would be required on approximately 4,600 catch basins. Utilizing the estimated cost from Appendix C: Economic Considerations for the Proposed Amendments to Statewide Water Quality Control Plans to Control Trash of \$1,142 per catch basin insert for installation and one year of operations and maintenance, an estimated total cost to implement Track 1 for the City of Irvine is \$5,253,200. This cost estimate results in a cost per capita of \$21.65, more than double the \$10.50 Estimated Annual Cost Per Capita (After Full Implementation in Year 10) from Table 13.</p>		<p>The Economic Considerations analysis used two methods to estimate the incremental costs of compliance with the Trash Amendments. The first method is based on cost of compliance per capita, and the second method is based on land cover. It is recognized that the estimated incremental annual cost to comply may vary for site specific conditions. As the Economic Considerations represent a statewide average, communities may wish to conduct their own cost analyses. (See Appendix C of the Final Staff Report.)</p>
22.5	<p>While it could be argued that compliance through Track 2 would provide some flexibility to address the above concerns, the burden of proof of performance results for Track 2 programs is impossible to meet for the following reasons:</p> <ul style="list-style-type: none"> <li>A performance evaluation cannot be developed for an unknown target. The performance results to be achieved by the exclusive use of full capture systems (Track 1) is unknown, unless a municipality has already installed full capture</li> </ul>		<p>The proposed final Trash Amendments were modified to address the performance standard concern with the incorporation of the term full capture system equivalency. (Ocean Plan Track 2 allow for multi-jurisdictional collaboration. (Ocean Plan Amendments III.L.2.a, Part I ISWEBE IV.A.3.a, and definition of "full capture system equivalency.") Additionally, if the existing trash generation is low then the reduction target is also low and achievable. Please see the Response to Comment 6.2.</p>

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	<p>systems and monitored their performance.</p> <ul style="list-style-type: none"> <li>It is unclear how effectiveness of an individual municipal program could be objectively measured and quantified, since the original source of trash in receiving waters is unknown. Trash from upstream dischargers will pass between jurisdictional boundaries and could be erroneously attributed to downstream municipal systems.</li> <li>If the level of trash discharged from a municipal system is already low, it may be impossible to document reductions from the previous year.</li> </ul>		
23.1	<p>The City of La Mesa supports the focus on high trash generating land uses. Focus on these areas within a community will allow stormwater programs to invest resources where they will provide the best return on the investment in the controls.</p> <p>Recommendation: Rather than installing devices in areas where the return on the investment will be low, we 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 the public agency the authority to exempt such areas if they are found not to be high</p>		Please see Responses to Comments 10.7 and 12.2.

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	trash generating.		
23.2	<p>Many MS4s around the state have been working extensively with the Regional Water Boards to develop and implement programs based on watershed planning and the prioritization of water quality conditions. Recommendation: The Proposed Trash Amendments need to recognize the value of current management programs and not divert resources away from ongoing successful efforts to control trash in our waterways or place additional demand on already limited resources. We urge the State Water Board to allow MS4 programs with existing focused water quality implementation plans to address trash in the prioritization context of those existing plans.</p>		Please see Response to Comment 11.9.
23.3	<p>City of La Mesa does not dispute the water quality benefits of controlling trash, however, the amendments represent added costs, and may take away from other planned water quality efforts. Not only are we concerned with the initial cost of installing these full capture devices but also the ongoing costs of managing and maintaining them. Recommendation: The City of La Mesa recommends that the State</p>		<p>The State Water Board agrees that permittees partnering together or partnering with other entities is a beneficial idea for controlling trash. As such, the Trash Amendments specify coordination of effort between Caltrans and MS4 in overlapping significant trash generating and/or priority land uses. Coordination with Caltrans will increase the avenues for funding.</p> <p>The State Water Board has and will continue to support loans and grants for projects that implement the Trash Amendments. The State Water Board has multiple programs to provide funding. The Public Resources Code requires that the Proposition 84 Storm Water Grant Program funds are used to</p>

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	Water Board partner with permittees to explore possible ways to fund these trash control measures.		provide matching grants to local public agencies for the reduction and prevention of storm water contamination to rivers, lakes, and streams. Please visit the following website for more information: <a href="http://waterboards.ca.gov/water_issues/program/grants_loans/prop84/index.shtml">http://waterboards.ca.gov/water_issues/program/grants_loans/prop84/index.shtml</a>
24.1	The City of Lodi also supports the comments submitted by the California Stormwater Quality Association, the Statewide Stormwater Coalition, and the County of San Diego.		Additional financial assistance information including information on the Clean Water State Revolving Fund loans, is available at: <a href="http://www.waterboards.ca.gov/water_issues/programs/grants_loans/">http://www.waterboards.ca.gov/water_issues/programs/grants_loans/</a>  CalRecycle administers funding programs to assist with waste disposable, specifically reducing beverage container litter in the waste stream. Information on the Beverage Container Recycling Grants is available at: <a href="http://www.calrecycle.ca.gov/bevcontainer/grants/">http://www.calrecycle.ca.gov/bevcontainer/grants/</a>
24.2	Request the State Water Resources Control Board to provide all agencies more time to work together and develop a more flexible policy to address trash that is aligned with local planning efforts, instead of a 'one size fits all' approach.		Please see Response to Comment Letters 10, 45, and 68.  The Trash Amendments have undergone an extensive public participation. The State Water Board believes the Trash Amendments have been crafted to provide both statewide consistency and flexibility. (See Final Staff Report Section 2.14.)
24.3	Delay until a funding source is identified to provide for the implementation or ongoing maintenance of the structural controls required to capture trash. Limited local resources shifted from		Please see Response to 10.4.

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24.4	<p>local priority efforts to address trash is a disconnect between local and statewide planning efforts.</p> <p>Compliance with Water Quality Objective and Prohibition of Trash Discharge</p> <p>The Proposed Trash Amendments provide a narrative water quality objective (WOO) 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 WOO). This could result in permittees being subject to a Trash TMDL for the receiving water, even if in compliance with permittees' MS4 Permit.</p>	<p>Recommendation: City of Lodi 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.</p>	<p>Please see Response to Comments 4.1 and 10.9.</p>

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24.5	<p>As defined in the Proposed Trash Amendments, the predefined priority areas may not be appropriate for all jurisdictions and does not consider local knowledge of receiving water conditions and 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. City of Lodi supports the concept of prioritized land uses to address problem areas; however, the approach should allow for more local flexibility in this prioritization. City of Lodi and the other municipal separate storm sewer system (MS4) Co-permittees in our watersheds have been working extensively with the 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</p>	<p>Recommendation: City of Lodi 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 M54 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 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</p>	<p>Please see Response to Comment 11.9.</p>

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	<p>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.</p>	<p>priority land uses.</p>	
24.6	<p>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.8.3.a.(2) and Chapter III.L.2.a.(1)/Chapter III.L.2.a.(2) of the ISWEBE Plan and Ocean Plan, respectively. This would trigger compliance requirements for a storm drain even if only a very small portion of a priority land use drains to the storm drain.</p>	<p>Recommendation: Recommend adding language to Chapter IV. B. 3.a. (1 )/IV. B. 3.a. (2) and Chapter I I i. 1.2.a. (1 )/Chapter III.L.2.a.(2) of the ISWEBE Plan and Ocean Plan, respectively 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 priority land uses comprise &gt;25% of the land area in the catchment; or (2)Track2: Install,</p>	<p>Please see Response to Comment 11.4.</p>

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		<p>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-priority land uses comprise &gt;25% of the land area within the catchment'</p>	
24.7	<p>The Proposed Trash Amendments, in Chapter IV.B.7.b and Chapter II; L.6.b of the ISWEBE Plan and Ocean Plan, respectively, require permittees implementing Track 2 to monitor 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,</p>	<p>Recommendation: City of Lodi recommends the State Water Board revise the language in the Proposed Trash Amendments (Chapter IV.8.7.b and Chapter III.L.6.b of the ISWEBE Plan and Ocean Plan, respectively) to allow for more flexibility</p>	<p>Please see Response to Comment 4.6.</p>



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	<p>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 case other methods are appropriate (e.g. pounds of trash removed through a control measure).</p>	<p>in determining Track 2 performance and to remove the requirement for receiving water trash monitoring.</p>	

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24.8	<p>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. City of Lodi 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.</p>	<p>Recommendation: City of Lodi 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.</p>	<p>Please see Response to Comment 10.10.</p>
24.9	<p>The well-established Community Planning Groups in these rural areas have established priority issues through rigorous stakeholder planning processes. Rural towns have commercial areas that will be under the Trash Amendments. 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. Based on their local planning processes, the threat of firestorms or other local priorities may be the best</p>	<p>Recommendation: City of Lodi recommends exempting rural areas from the Trash Amendments that are not directly contiguous to urbanized areas.</p>	<p>Trash is a priority pollutant across California and is impairing the beneficial uses of surface waters. This issue is not limited by community type, e.g., rural or urban. The State Water Board agrees that rural communities might contribute less trash than urban communities, due to population size; however, the State Water Board does not think the recommended language is necessary. The implementation provisions of the Trash Amendments are aimed to focus trash controls in five priority land uses. A rural community covered by a MS4 permit would comply with the prohibition of discharge via Track 1 or Track 2 to the extent that there are priority land uses.</p>

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25.1	<p>use of their limited resources.</p> <p>Full capture devices installed in private drains; inlets downstream of priority land uses that already have trash controls. Rationale for change Page 74 of the staff report references maintenance of full capture systems installed on private properties, which indicates that the State Water Board intended to allow treatment BMPs installed on private properties to help satisfy the requirement to remove trash from discharges from priority land uses. However, the existing text of L.2.a.(1) and L.2.a.(2) implicitly prohibits installation of full capture devices and other treatment controls or institutional I controls on private property from being part of the municipality's approach to comply with the proposed Trash Amendments. The suggested revisions above would give municipalities subject to MS4 NDPES permits the option of complying either by installing BMPs or implementing institutional controls on their own public property or by requiring the implementation of these approaches on private property. Additionally, the proposed language would allow municipalities not to have to install a full capture device (or Track 2 equivalent) when the only priority land use draining to a given storm drain is a facility permitted</p>	<p>Suggested revision to L.2.a.(1) and L.2.a.(2) (1) Track 1: Install, operate and maintain, or <u>require to be installed, operated, and maintained, full capture systems* for all storm drains that capture to treat-runoff from all land area in each permittee's jurisdiction that drains to the permittee's MS4 and is classified as one or more of the priority land uses* in their jurisdictions; or</u> (2) Track 2: Install, operate, and maintain, or <u>require to be installed, operated, and maintained, 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</u></p>	<p>Pursuant to the express terms of the Trash Amendments (Ocean Plan Amendment at III.L.2.a; Part I ISWEBE at IV.A.3.a), the requirement for MS4 permittees to comply with Track 1 or Track 2 extends to the extent they have "regulatory authority" over priority land uses in their jurisdiction. If the MS4 permittee has legal authority to install, operate, and maintain full capture systems for a storm drain, whether at the actual site of the drain or inline, then that permittee would be required to do so under the Trash Amendments. To comply with Track 1, full capture systems must be installed, operated, and maintained for "all storm drains that capture runoff from priority land uses. (Ocean Plan Amendment at III.L.2.a.1; Part I ISWEBE at IV.A.3.a.1.) Insofar as an MS4 permittee does not have authority over a private storm drain, the MS4 would comply with Track 1 by, for example, installing a vortex separator system inline, which would capture trash from a whole drainage area of individual storm drains (see Staff Report section 5.1.3), or installing trash nets (see Staff Report section 5.1.4) to capture trash from drainage areas of storm drains. (See generally, discussion in Staff Report in Section 5 through 5.1.5.) The State Water Board does not support the recommendation. Additionally, Please see Response to Comment 11.4.</p>

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	<p>under the Industrial General Permit (IGP), which would be required to install trash controls as a condition of its own coverage under the JGP. Under that circumstance, requiring the MS4 permittee to install a full capture system (or Track 2 equivalent) for a priority land use that has already been addressed at the source as a condition of the JGP would not be an effective use of MS4 permittee resources. Overall, the revised language proposed above gives jurisdictions more flexibility to find the most efficient and effective way to remove trash from priority land use discharges, which appears to have been the intent of the regulations given the discussion in the staff report.</p>	<p>performance results as compliance under Track 1 would achieve for all land area in each permittee's jurisdiction that drains to the permittee's MS4 and is classified as <del>all storm drains that captures runoff from one or more</del> of the priority land uses * <del>within such</del> jurisdiction(s).</p>	
25.2	<p>The City agrees that public transportation stations, such as light rail stations or bus terminals, have the potential to be significant sources of trash and should be considered priority land uses. Bus stops, on the other hand, may change locations every few years. This could create compliance difficulties for strategies that involve structural BMPs, and it could also discourage expansion or optimization of public transportation routes within the City of National City. The City of National City is pursuing and implementing smart growth development practices and</p>	<p>Suggested revision to Appendix I (Definitions) "(5) Public transportation stations: <u>major</u> facilities or sites where public transit agencies' vehicles load or unload passengers or goods (e.g., <u>bus or light passenger rail stations and stops</u>)." </p>	<p>The State Water Board is encouraged by the City of National City's implementation for smart growth development practices and does not anticipate the Trash Amendments will discourage the expansion of public transportation and smart growth. Within Track 2, the Trash Amendments provide flexibility with options such as of the use of low-impact development and multi-benefit projects to control trash.</p>

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	<p>encouraging non-car transportation, including public transportation, in a significant portion of the City. The City is concerned that the proposed Trash Amendments could discourage expansion of public transportation opportunities and smart growth, which could have unintended negative environmental consequences.</p>		
26.1	<p>The Staff Report states the proposed program has been in development for a number of years and that a group of stakeholders was convened to provide input on the development of the program. It is also noted that stakeholder group meetings were not made public and the Staff Report is the first publicly available document that provides information on how the program is to be implemented. We believe this is a large undertaking for a statewide program and our experience has shown that significant resources and costs will be expended to comply with these amendments. We urge the State to move slowly and provide additional time and more workshops to allow municipalities additional comments before these amendments are formally adopted. The time factor also does not allow for the review of the many supporting studies cited in the Staff Report within the comment period allowed.</p>		Please see Response to Comment 3.1.

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26.2	<p>The Staff Report states that the strategy to control trash is taken primarily from the experience in the San Francisco Bay and Los Angeles regions. We agree that those regions may have similar conditions applicable statewide but it must also be recognized that there are differences between regions and what is applicable in one region is not necessarily applicable in another region. It is important to recognize these differences because the cost to each municipality for the proposed program will be in the thousands to millions of dollars over the term of implementation as noted in the Appendix C of the Staff Report. We commend the State for proposing a trash control strategy that is reasonable and applicable only to high trash generating areas instead of implementing a zero discharge policy for all land uses and water bodies. This latter option would make no sense and would be a waste of public funds and resources since wind driven trash can find its way to a water body and lead to a finding of noncompliance even with full implementation of trash control devices. It should also be noted that the storm events greater than the one-year event may produce trash that should not lead to a finding of noncompliance.</p> <p>Recommendation: Recognize that</p>		<p>A full capture system has been defined to "trap all particles that are 5 mm or greater, and has a design treatment capacity that is either...b) appropriately sized to, and designed to carry at least the same flows as, the corresponding storm drain." The intention of part b) of the definition is to address the concern that storm events greater can carry trash into water bodies. (See Ocean Plan Amendment and Part I ISWEBE definition for "full capture system.")</p>

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26.3	<p>storm events greater than one-year can carry trash into water bodies.</p> <p>The proposed amendments are based on strategy to control trash from priority land uses, which include residential high density, urban mixed, industrial and commercial, transportation hubs, bus stops and others. While it is clear that these land uses may produce high amounts of trash, how these land uses are incorporated into the program and defined needs to be considered. High Density Residential: It is anticipated that residential high density neighborhoods will generate significant amounts of trash as shown in studies but it should be noted that the term and definition of high density varies among municipalities and the resulting densities are not all the same. In Orange, the term "high density" is not a category within the City's Zoning Code. The proposed amendments define high density as ten dwelling units per acre. In Orange, this would translate to a zoning district categorized as Low Medium Density Residential R-2 that allows within its mixture duplexes and small apartment buildings and has a density range of six to fifteen units per acre with an expected range of 8 units per acre.</p>		<p>The proposed Trash Amendments focus on areas with high trash generation rates, such as priority land uses for MS4 Phase I and Phase II permittees and significant trash generating areas for Caltrans. There is no existing data on the location of priority land uses. A GIS analysis was used to determine the possible geographic scope of the proposed Trash Amendments. Land cover data within census designated places and regional water board boundaries were used to provide an estimate the area covered under the proposed Trash Amendments. Due to lack of statewide consistency in land use planning and GIS data from individual municipalities, "Developed, High Intensity" was assumed to be an analogous proxy to the priority land uses of the proposed Trash Amendments: high density residential, industrial, commercial, mixed urban, and public transportation stations. However, high density residential, as defined in the Trash Amendments, is based on units per acre and not impervious area percentage. (See Final Staff Report Section 3.1.)</p>

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	<p>Impervious area in this district can range from 45% to 90% as noted in the Orange County Hydrology Manual for this building density. Because the R-2 district allows ten units per acre, it would be categorized as a priority land use even though it may not meet the impervious area definition of 80-100% for high density as defined in Staff Report Section 3.2. Clearly, the lower range of Low Medium Density Residential in Orange of six units per acre would not meet this definition or be compatible with Figure 24 of the Staff Report. Recommendation: The amendments should be revised to clarify that high density as used in the amendments with a building density of ten units per acre is a surrogate for residential land use that contains 80-100% impervious area. Municipalities should be allowed the opportunity to review their respective codes to ascertain what type of residential density meets the 80-100% impervious area criteria. It should also be recognized that zoning such as Orange's R-2 has a range of building densities and that trash control devices would only be used in areas where the existing built condition contains 80-100% impervious area. A field reconnaissance would be allowed to ensure only those areas with high</p>		



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26.4	<p>impervious areas are retrofitted with trash control devices.</p> <p>Within the category of Industrial land use there can be many subdivisions. In Orange, there is light and heavy manufacturing. Within the City we have seen a shift in industrial processing particularly in the Light Industrial use category where manufacturing processes are conducted indoors under cover and are not exposed to the elements. As a result, we have not seen a significant amount of trash generated on public streets in most areas with this land use. This is confirmed by the number of times City maintenance crews have had to clean catch basins within these areas. To require the use of trash control devices in industrial areas without verifying that significant trash is generated would result in a waste of public funds. In heavy industrial manufacturing areas many facilities are subject to the State General Industrial Storm Water Permit where it is expected that trash control devices will be required onsite. The use of onsite trash control devices will minimize onsite trash discharged to the street and trash control devices may not be required within the public street.</p> <p>Recommendation: The amendments should be revised to allow municipalities the opportunity to</p>		<p>For these situations described, the permittee can utilize "equivalent alternate land uses" to substitute a priority land use for an alternate land use within the permittee's jurisdiction that generates rate of trash equivalent to or greater than the priority land use being substituted. (See Ocean Plan Amendment and Part I ISWEBE, Definitions Section, for "priority land uses.") Additionally, please see Response to Comments 10.1, 11.4, 12.2, and 25.1.</p>

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	<p>assess whether industrial land use areas are high trash generating areas. The amendments should also be clear that municipalities are only responsible for providing trash control devices within a public street or areas they are responsible for maintaining. This does not include responsibility for providing and maintaining trash control devices on private land (shopping areas, apartment complexes, mobile home areas, etc.) or private communities with private streets.</p>		
26.5	<p><u>Bus Stops:</u> Bus stops are also designated a priority land use where trash controlling devices must be used. As with residential development, not all bus stops generate significant amounts of trash. Provisions should be included in the amendments to allow surveys of bus stop areas to determine which areas produce significant amounts of trash. In these areas, alternate methods to control trash such as more frequent cleaning should be allowed in lieu of providing a full capture device downstream.  Recommendation: Allow alternate methods to capture trash in lieu of installing full capture devices downstream.</p>		<p>Please see Response to Comment 12.2.</p>
26.6	<p>The amendments propose a two path alternative for compliance: Track 1 or Track 2. Track 1 requires</p>		<p>A full capture system has been defined to "trap all particles that are 5 mm or greater, and has a design treatment capacity that is either:...b) appropriately sized to, and designed to carry at</p>

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	<p>operation and maintenance of full capture systems that capture runoff from priority land uses. Track 2 can be a combination of full capture systems and other alternative measures that achieve the same trash reduction goal.</p> <p><b>Full Capture Devices:</b> As defined in the amendments, full capture devices must be able to capture trash 5mm and greater and sized for the 1-hr rainfall intensity of a 1-year storm event. Alternatively, it can be sized to handle the inlet storm drain capacity. This definition borrows from the full capture definition used in the Los Angeles River Watershed Trash TMDL. Using this definition may make sense to match the ongoing trash control efforts in the Los Angeles and the San Francisco Bay Area where municipalities are trying to comply with existing trash TMDLs. However, this definition will have a negative impact in other regions where existing trash control devices, particularly vortex separators, were installed to meet MS4 permit design requirements such as the 0.2 inches per hour rainfall intensity specified in the Orange County Santa Ana Region permit. The proposed criteria will significantly reduce the usefulness of these devices that were installed at great expense.</p> <p><b>Recommendation:</b> The full capture</p>		<p>least the same flows as, the corresponding storm drain." The intention of part b) of the definition is to address this concern of storm drain design. (See Ocean Plan Amendment and Part I ISWEBE definition for "full capture system.")</p>

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	<p>design criteria should be revised to match existing criteria in municipal MS4 permits for rainfall intensity or at a minimum grandfather devices installed or under design in existing MS4 permits.</p>		
26.7	<p>Certification Process: The Staff Reports indicates that devices already approved by the Los Angeles Regional Board will be accepted but that all new full capture devices used to satisfy Track 1 would be certified and approved by the State. A listing of these devices would be useful. However, there is no listing of approved devices nor is information provided on what needs to be submitted for obtaining approval of the new device. The processing and review time to get a device approved is also not specified. This information is important to know in selecting future trash control devices. It may be possible that a municipality elects to implement a device that has not been approved and submits the device for State approval. If the State fails to act in a timely manner the potential exists for the municipality to be out of compliance because it failed to install 10% of the devices due to State delays or inaction.  Recommendation: Provide a listing of approved full capture devices and the</p>		Please see Response to Comment 10.5.

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26.8	<p>information needed to get full capture devices approved and the anticipated review time.</p> <p>A major concern with the program is the timing of the proposed amendments and their cost implications. Over the last ten years there has been a significant expansion in the listing of impaired waters statewide and development of their corresponding TMDLs. TMDLs typically cover one pollutant and can cost millions of dollars annually to implement as shown by the statewide trash and bacteria TMDLs and the proposed solution for treating selenium in Orange County. Add to these existing TMDLs additional TMDL programs or a program such as the one proposed and the result can be millions of dollars in annual expenditures to municipalities. Because of the significant cost of this program, the additional costs cannot be taken lightly and it must be noted that the proposed program is being implemented statewide without a finding of water body impairment that is typically a prerequisite before dischargers are required to comply with imposed limits. In addition, stakeholders are generally involved in developing TMDLs so that the solution is clear and everyone understands the potential costs. In this program, stakeholders are being</p>		<p>Trash is a priority pollutant across California. A dual alternative “compliance track” approach tailored to each NPDES storm water permit category would provide flexibility to permittees to determine the most effective means of controlling trash while taking into consideration particular site conditions, types of trash, and the available resources for maintenance and operation. With the priority land use approach, efforts to control trash would be focused to the areas that contribute the most to the problem. This approach contrasts a trash TMDL approach which establishes a numeric target of zero for the entire watershed. Therefore, the Trash Amendments provide a lower resource alternative to control trash in contrast to a water body by water body TMDL approach.</p>

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26.9	<p>given an opportunity to provide comments instead of a thorough vetting of the program.</p> <p>To assess the expected program cost to municipalities, Appendix C provides tables of costs incurred by municipalities in the Los Angeles region and from a survey of MS4 permittees. These tables provide useful information and show that the anticipated program costs will be in the millions. Data from the City's experience with trash capturing devices has shown that automatic retractable screens cost an average of \$833 per catch basin. Add to that the cost of pipe screen connectors to make it a full capture system and the result would be an additional \$300-\$400 dollars per catch basin. This translates to about \$1100 per catch basin or about \$14.90 per capita. This amount is higher than the \$8.96 shown in Table 13 of Appendix C (page C-24) and the \$800 per unit noted on page C-30. Experience with the automatic retractable screens has also shown that they require extensive maintenance to prevent captured trash from discharging downstream. As a preliminary estimate to assess the cost to the City, if we assume a range of one third to one half of the City's 1900 catch basins are to be retrofitted with automatic retractable</p>		<p>The Economic Considerations in Appendix C provides a summary overview of the costs associated with reasonably foreseeable means of compliance that permittees may select to be in compliance with the proposed Trash Amendments. The economic analysis is conducted at the macro level to assess the estimated overall impact of the proposed Trash Amendments and provides gross average estimates of the cost per capita and the cost per acre based on specific cost assumptions. The Economic Considerations does not specify the compliance cost for specific permittees. Page C-8 of the analysis states that "A more detailed analysis would be needed to estimate cost at the micro or project-specific level for each individual permittee."</p> <p>The value of \$8.96 per capita in Table 13 (page C-24) is the average capital cost per capita for communities with a population between 100,000 and 500,000. The City of Orange estimate of \$14.90 per capita is within the range of cost considered in the analysis for their population size group (139,419). On page C-32 of the economic analysis, the State Water Board identified that the cost per capita ranged from \$3 per person per year to up to \$60 per person per year.</p>

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	<p>screens and pipe connector screens, the anticipated costs would range from \$700,000 to about \$1,000,000. However, these devices are maintenance intensive and this cost must be balanced against a vortex separator which needs to be maintained 1-2 times per year but is likely to cost up to \$100,000 per unit. A mixture of the two types of trash control devices is likely to be the preferred solution but that would put the program cost in the millions of dollars.</p>		
26.10	<p>Faced with the anticipated high costs of the program and the ever expanding universe of storm water programs that compete for the same resources, municipalities will have a difficult time securing funding without assistance. Municipalities cannot simply raise rates. The Bighorn-Desert View Water Agency decision of 2006 effectively prohibited raising utility rates under Proposition 218 without voter approval. With no money to fund trash control devices, this program along with health and safety programs will compete for General Fund revenues. Municipalities will be faced with the difficult choice of deciding which programs to fund at the expense of others. The State should consider ways to fund the program or assist municipalities in finding appropriate funding. Another way to lessen the</p>		Please see Responses to Comments 10.4 and 29.4.

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	<p>financial burden is to expand the time allowed for implementation of the program. TMDLs with anticipated high costs now routinely allow implementation periods up to twenty years.</p> <p>Recommendation: a) The amendments should be revised to provide up to twenty years to implement the trash control program.</p> <p>b) The State should assist in funding the trash control program or find funding solutions.</p>		
27.1	<p>The City also supports and includes by reference comments submitted by the Bay Area Stormwater Management Agencies Association (BASMAA) and the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP).</p>		<p>Please see Response to Comment Letters 4 and 63.</p>
27.2	<p>For the expanded plastic bag ordinance, data on store compliance, observations of bag use at stores, as well as field observations and counts of bags at clean up events show that plastic bags used and found in the environment have been significantly reduced. Therefore, the benefit of such source control actions should be better accounted for in the Trash Amendments.</p>		<p>Please see General Response to Comment Letter 1 and Comment 1.3. (Ocean Plan Amendment at removed III.L.5; Part I ISWEBE at removed IV.A.6)</p>
27.3	<p>The City of Palo Alto supports BASMAA's request to provide an alternative track in the</p>		<p>Please see Response to Comment 4.2.</p>



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	<p>implementation requirements of the trash amendments for the San Francisco Bay Area Phase I MS4 dischargers under the jurisdiction of the San Francisco Bay Regional Water Quality Control Board. Bay Area permittees have already spent significant resources on preparing and implementing long-term trash reduction plans and mapping community-specific high, medium, and low trash generating areas. This effort provides a path to complying with trash reduction goals in the Bay Area Phase I regional NPDES municipal stormwater permit. Therefore, the submittal of written notice on whether a permittee will follow Track 1 - full trash capture or Track 2 - a combination of controls, as well as the requirement for those permittees electing to follow Track 2 to submit an implementation plan, is duplicative of efforts already undertaken in the Bay Area and would divert resources away from implementing trash controls already planned. At a minimum, the requirements for duplicative efforts should be waived for Bay Area permittees, and priority land areas identified in the long-term trash plans should be deemed acceptable.</p>		
27.4	<p>The City of Palo Alto is also concerned about the monitoring requirements included in the Trash Amendments, specifically the</p>		<p>Please see Response to Comment 4.6.</p>

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	<p>monitoring questions asking MS4s to determine whether trash discharge has decreased through the MS4 and in the receiving water from year to year. The City supports BASMAA's request to replace these questions with "to what extent has trash from priority land uses been addressed?" This question could be answered through on-land visual assessments, which have been performed successfully as an assessment tool in Bay Area municipalities, including Palo Alto. Receiving water trash amounts should not be used to measure compliance with stormwater trash reduction requirements. While the goal of all our efforts is to reduce trash in receiving waters, the receiving waters in Palo Alto are heavily influenced by discharges from areas that Palo Alto has no jurisdiction over (notably Highway 101, which is under the jurisdiction of Caltrans).</p>		
27.5	<p>Trash data from shoreline clean ups is highly variable from year to year and is not an accurate indicator of trash that may have been discharged through the storm drain system nor of the effectiveness of the City's substantial efforts in controlling trash. Rather than prescribing documentation of Track 2 performance, permittees should have the ability to determine and implement cost-effective methods to</p>		<p>The Trash Amendments do provide the ability and flexibility to the permittee to determine and implement cost-effective methods to monitor trash reduction associated with MS4s. In the method developed for the proposed Trash Amendments, the permittee who selects Track 2 must demonstrate that the selected trash controls are effective and achieve equivalent trash load reductions to Track 1 in order to be in compliance with the prohibition of discharge for trash. The proposed final Trash Amendments introduced the term full capture system equivalency to provide clarity of how to demonstrate and achieve equivalent trash load reduction in Track 2 to Track 1. The Trash Amendments both establish the framework to full</p>

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28.1	<p>monitor trash reduction associated with MS4s.</p> <p>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.</p>		<p>capture system equivalency and Track 2 monitoring and provide the flexibility to both the permittee and permitting authority to determine the permit specifics within the framework.</p> <p>Trash is a priority pollutant across California. The State Water Board agrees that the Trash Amendments should provide flexibility for permittees to determine the most effective and efficient methods and controls to control trash discharges from the areas that have high trash generation rates. Therefore, the Trash Amendments focus on a dual alternative "compliance track" approach to provide the flexibility to permittees to determine the most effective means of controlling trash while taking into consideration particular site conditions, types of trash, and the available resources for maintenance and operation. The priority land uses are based on lessons learned and extensive data collected from permittees with existing trash controls, either trash TMDLs or permit conditions. The priority land uses include five categories of land uses that generate high amounts of trash.</p>
28.2	<p>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 16th 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</p>		<p>Please see Response to Comment 3.1.</p>

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	<p>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.</p>		
28.3	<p>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.</p>		Please see Responses to Comment 10.4.

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29.1	<p>The Proposed Trash Amendments stem from identified trash-impaired water bodies in highly populated regions of the state (Los Angeles, San Francisco, San Diego, and Colorado River Basin). The City appreciates the efforts of the State and Regional Water Boards to work with municipalities to address the nature of this problem specific to these areas. The current proposal uses studies from these areas and superimposes these solutions statewide. This extrapolation does not translate to the City or other communities of lesser population densities, differing geography, and demographics. The Proposed Trash Amendments clearly are focused on MS4 discharges as the primary contributor of trash. This is evidenced by the structure of Track 1 and Track 2 alternatives for compliance. For Track 1 compliance, only MS4 discharges are addressed. This track fails to address other sources of trash in waterways which can be the primary contributor of trash in many communities. This could result in implementation of an expensive and ineffective prescriptive methodology for many communities, without any measurable results from a baseline condition to assess true effectiveness. Track 2, as proposed, does create somewhat of a</p>		<p>Please see Responses to Comments 4.6, 6.1, 6.2, 10.1, 10.7 and 12.2.</p>

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	<p>methodology for assessment and measurement, but creates an endless process of chasing an unachievable goal of zero trash. Failure to be able to achieve this goal under Track 2 will drive many municipalities to move toward Track 1 based purely on the potential of third party lawsuits and not on what is best for water quality. We recommend that the Proposed Trash Amendments be modified to require a clearly-defined methodology to perform these assessments to determine the actual impact of trash in all MS4 jurisdictions. This assessment should not be limited to trash from MS4 discharges, but should include identification of all sources (i.e. illegal dumping, windblown trash, etc.). This would allow the municipalities to calibrate their efforts to mitigate trash based on what is the major source contributor. If implemented thoughtfully, the State could be provided much needed data on the primary sources of trash, which could drive science-based regulations for source control.</p>		
29.2	<p>The proposed regulations place an undue burden on MS4 communities and do not require the producers of products that negatively impact the environment to be part of the solution. Plastics, fast food wrappers, cigarette butts, and other</p>		Please see Response to 4.5.

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	<p>single use items are the bulk of the items that are contributing to trash in waterways. Where possible the State should take action to eliminate or reduce the source of trash. Through forward-thinking programs, and working with other State agencies such as the Department of Resources Recycling and Recovery, trash reduction can be achieved through statewide bans on specific products and increased fees to incentivize recycling. There are many great examples already in place where source control or alternative products have been effectively implemented statewide. Chlorpyrifos and Diazinon were once used as primary pesticides for decades and resulted in impairments in water bodies in many regions. Copper used in brakes is also a water quality problem. Through statewide phasing out of these products, and changing to alternative materials that achieve the same results, these impairments are no longer ongoing threats to water quality. In cases where elimination of a product is not feasible, such as the use of plastic and glass bottles, significant trash reductions could be achieved by increasing redemption values and making recycling more convenient. The Cal Recycle program for waste oil can be a model for implementing and funding these</p>		

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29.3	<p>types of activities. Source control and funding for trash mitigation should be borne by the producer and consumer of these products. By placing the burden to mitigate these issues on municipalities the Proposed Trash Amendments do little to address the source of the issue for the long term.</p> <p>The City has over 20 years of water quality data that is used to establish which pollutants of concern (POC) or target pollutants is the highest priority for the community. Programs and funding have been defined based on the prioritization of the water quality conditions. The Proposed Trash Amendments will require funding for implementation, which with the limitations of Proposition 218 will likely require the recalibrating of funds from other water quality priorities. Effectively trash will be the highest priority for funding and resources, while identified watershed based priorities become a secondary issue. The Proposed Trash Amendments need to recognize the value of current management programs and not divert resources away from ongoing successful efforts to control trash in our waterways or place additional demands on already limited resources. We urge the State Water Board to allow MS4 programs with existing POC-focused water quality</p>		Please see Responses to Comments 10.4 and 11.9.



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29.4	<p>implementation plans to address trash in the prioritization context of those existing plans.</p> <p>The cost to local government of complying with the Proposed Trash Amendments is significant. The economic analysis included as Appendix C to the Draft Staff Report estimates an incremental annual cost for Phase I MS4s ranging from \$4 to \$10.67 per capita. This cost estimate includes capital and operation and maintenance (O&amp;M) costs, but the analysis excludes costs of developing implementation plans, monitoring, and reporting, citing the uncertainty of such costs. For the City of Sacramento, with a population of approximately 475,000 residents, using the State Board's own economic analysis translates to an additional annual cost ranging from \$1.9 million to \$5.07 million to implement the Proposed Trash Amendments. As noted, this does not include costs of developing implementation plans, monitoring, and reporting, which also can be significant based on the City's experience with the development of implementation plans, monitoring, and reporting to meet other NPDES requirements. The Draft Staff Report does not include any explanation or discussion of how agencies responsible for operation of MS4s, like the City, are expected to pay</p>		<p>Please see Responses to Comments 4.7 and 10.4.</p> <p>Regarding the estimation of costs referenced by commenter, Water Code section 13241 requires the State Water Board to consider certain factors, including economic considerations, in establishing the narrative water quality objective for trash which it did as more fully described in the Staff Report (Section 9 and Appendix C). In accordance with the California Code of Regulations, title 23, section 3777, subsections (b)(4) and (c), the Staff Report also considers a range of economic factors in its environmental analysis of the reasonably foreseeable methods of compliance, but the Staff Report does not engage in speculation or conjecture, nor does it conduct a site-specific project level analysis for the methods of compliance.</p> <p>The Economic Considerations in Appendix C provide an overview of the costs associated with reasonably foreseeable means of compliance that permittees may select to be in compliance with the Trash Amendments. The economic analysis was conducted at the macro level to assess the estimated overall impact of the Trash Amendments and provides gross average estimates of the cost per capita and the cost per acre based on specific cost assumptions. The Economic Considerations does not specify the precise compliance cost for specific permittees. Page C-8 of the analysis states that "A more detailed analysis would be needed to estimate cost at the micro or project-specific level for each individual permittee." It is very difficult to determine the actual cost of implementing compliance programs because of the highly variable factors and unknown level of implementation among different permittees and differences in monitoring and reporting by permittees. It is also difficult to isolate program costs attributable to permit compliance because they can vary widely. Despite those difficulties, effort has been made to identify program compliance costs to aid in the economic</p>

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	<p>these significant additional costs to address a problem- the deposit of trash- that the agencies do not create and cannot fully control. The City funds its MS4 NPDES permit compliance from storm drainage rates paid by City businesses and residents. The City's storm drainage system currently has a significant backlog of unmet capital improvement needs because the lion's share of annual revenues from storm drainage rates must be spent to meet current O&amp;M requirements. Adding capital, O&amp;M, implementation, monitoring, and reporting requirements to the City's NPDES permit to comply with the Proposed Trash Amendments will impose significant new costs that the City cannot fund with its current storm drainage rate revenues. Unless funding is provided by the State or from other sources, these new requirements may constitute an unfunded State mandate subject to reimbursement under article XIII B, section 6 of the California Constitution. Section 6 of article XIII B provides, in relevant part: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or</p>		<p>consideration required by Water Code section 13241. To implement the narrative water quality objective for trash in accordance with Water Code section 13242, the Trash Amendments contain a prohibition of discharge, implementation provisions, time schedule, and monitoring and reporting requirements.</p> <p>The Trash Amendments do not establish the requirements for the monitoring programs or reports, although they do provide that the reports should consider addressing a number of issues to demonstrate compliance with the requirements applicable to the discharger and that such reports must be submitted to the applicable Water Board annually. The costs for completing the monitoring and reporting reports will vary depending on the permittee's size and particular compliance track (Track 1, Track 2, or the existing permit prohibition in the general permit for storm water discharges associated with construction activities). Since the Trash Amendments do not establish the specific requirements for the monitoring, the economic analysis does not include an estimate of those potential costs. These costs are expected to be negligible relative to capital and operation and maintenance costs. However, to provide a further estimation on the cost of monitoring, the State Water Board has allocated \$1,080,000 in Proposition 84 Storm Water Grant Program funds to the project Tracking California's Trash focused on developing planning, designing and monitoring templates for evaluating trash controls necessary for complying with Track 2 requirements. In addition, State Water Board estimates the cost to perform trash monitoring and reporting for a city with 350,000 inhabitants (such as Bakersfield). The initial estimate indicates that the Track 2 monitoring and reporting might cost on the order of \$105,000 annually or \$0.30 per year per capita.</p> <p>Additionally, there is an element of cost consideration inherent in the maximum extent practicable (MEP) standard. While the term "maximum extent practicable" is not specifically defined in the Clean Water Act or its implementing regulations, U.S. EPA,</p>

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	<p>increased level of service . . . . "</p> <p>This subvention requirement does not extend to federally mandated programs (Government Code § 17556 (c)), and a program that requires a higher level of service does not constitute a mandate within the meaning of article XIII B, if the local agency has the authority to levy charges, fees, or assessments sufficient to pay for the program (Government Code, § 17556 (d)).</p> <p>The subvention requirement should apply in this instance, because: (1) the Proposed Trash Amendments are not federal mandates since they exceed any specific requirements for MS4s specified in the Clean Water Act or other federal law; and (2) while the City has authority to impose storm drainage rates to pay its cost to comply with the Proposed Trash Amendments, this authority is significantly constrained by the constitutional requirement specified in Proposition 218 (California Constitution article XIII D, section 6, subd. (c)) for voter approval of any increase in storm drainage rates. Further, the recent passage of Proposition 26 (California Constitution article XIII C, section 1) prevents the City from adopting new regulatory fees to fund such costs without voter approval of a special tax. For these reasons, imposing the Proposed Trash Amendments on the</p>		<p>courts, and the State Water Board have addressed what constitutes MEP. MEP is not a one-size fits all approach. Rather, MEP is an evolving, flexible, and advancing concept, which considers practicability. That includes technical and economic practicability. Compliance with the MEP standard involves applying BMPs that are effective in reducing or eliminating the discharge of pollutants in storm water to receiving waters. BMP development is a dynamic process, and the menu of BMPs may require changes over time as experience is gained and/or the state of the science and art progresses. MEP is the cumulative effect of implementing, evaluating, and making corresponding changes to a variety of technically appropriate and economically practicable BMPs, ensuring that the most appropriate controls are implemented in the most effective manner. The State Water Board has held that "MEP requires permittees to choose effective BMPs, and to reject applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the costs would be prohibitive." (State Water Board Order WQ 2000-11.)</p> <p>Regarding commenter's assertion that the costs necessary to comply with the Trash Amendments may constitute an unfunded state mandate, the State Water Board disagrees. The costs incurred by a local government to implement the provisions required by the Trash Amendments are not subject to the requirement contained in Article XIII B, Section (6) of the California Constitution that local government costs mandated by the State must be funded by the State—for numerous reasons, including the following:</p> <p>First, the Trash Amendments requirement that a MS4 permittee elect and comply with either Track 1 or Track 2 is not self-implementing. The Trash Amendments require the applicable State or Regional Water Board to include the requirements contained in the Trash Amendments into applicable NPDES permits. Any argument that the Trash Amendments are an</p>

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	<p>City's MS4 permit without providing funding may create an unfunded State mandate for which reimbursement will be required.</p>		<p>"unfunded state mandate" is premature until the issuance of such permits.</p> <p>Second, reimbursement or subvention does not extend to federal mandated programs. The costs associated with implementing the permit's eventual conditions (including compliance with Track 1 or Track 2, monitoring, implementation plans, etc.) are not a state, reimbursable mandate because the trash provisions are required under the broad, federal mandate of the Clean Water Act NPDES program. The water boards must comply with federal law when issuing a NPDES permit. The Clean Water Act compels the State Water Board to include broad treatment controls in MS4 permits as it determines necessary to reduce the discharge of pollutants. (CWA § 401(p)(3)(B)(iii).) Although federal law does not expressly require the precise trash provisions' treatment controls, upon incorporation into permits, the trash provisions would come within the mandate of Clean Water Act section 401(p)(3)(B)(iii) that permits contain controls to reduce trash to the "maximum extent practicable" and "such other provisions as the [State Water Board] determines appropriate." The requirements contained in the Trash Amendments do not exceed the obligations required under federal law but comports with the federal "floor." Additionally, it is well established that "[a] mere increase in the cost of providing a service which is the result of a requirement mandated by the state is not tantamount to a higher level of service." (<i>Long Beach Unified Sch. Dist. v. State of California</i> (225 Cal.App.3d 155, 173.)</p> <p>Third, compliance with Track 1 is not a state mandate because a permittee is not absolutely required to implement Track 1. A permittee may implement any combination of controls identified under Track 2 (full capture devices, multi-benefit projects, institutional controls and other treatment controls). Such controls include best management practices of street sweeping, education and outreach programs, trash collection, and ordinances. Any permittee selecting Track 2 may cater the controls it implements to the unique circumstances of the trash</p>

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			<p>generation within its jurisdiction, so long as the permittee can demonstrate that those controls will be equally effective in controlling trash as the "full capture system equivalency" standard.</p> <p>Fourth, under the Clean Water Act, the discharge of pollutants is prohibited without a permit. The permittees have requested permit coverage in lieu of compliance with the complete prohibition against the discharge of pollutants contained in federal Clean Water Act section 301, subdivision (a) and in lieu of numeric restrictions on their discharges. To the extent, the local agencies have voluntarily availed themselves of the permit, the program is not a state mandate. (See e.g., <i>County of San Diego v. State of California</i> (1997) 15 Cal.4th 68, 107-08.) Likewise, the permittees have voluntarily sought a program-based municipal storm water permit in lieu of a numeric limits approach. (See <i>City of Abilene v. U.S. E.P.A.</i> (5th Cir. 2003) 325 F.3d 657, 662-63 [noting that municipalities can choose between a management permit or a permit with numeric limits].) The local agencies' voluntary decision to file a report of waste discharge proposing a program-based permit is a voluntary decision not subject to subvention. (See <i>Environmental Defense Center v. USEPA</i> (9th Cir. 2003) 344 F.3d 832, 845-48.)</p> <p>Fifth, reimbursement is not required where a local agency permittee has authority to levy charges, fees, or assessments sufficient to pay for such a program. Assuming for the sake of argument that a local agency assesses fees to address trash generation in a way that requires voter approval pursuant to Proposition 218 or Proposition 26, as commenter suggests, that does not mean the local agency does not have fee authority for purposes of subvention/mandates law.</p>
29.5	MS4s communities would be considered in full compliance with the prohibition of trash discharge so long as they were fully implementing		Please see Response to Comments 4.1 and 10.9.

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	<p>Track 1 or Track 2. However, the Proposed Trash Amendments do not indicate that meeting the discharge prohibition requirements would also mean the MS4s are in compliance with the stated narrative water quality objective. The City requests language be added to the Proposed Trash Amendments indicating that the MS4s are in compliance with the receiving water limitations so long as they are fully implementing Track 1 or Track 2. In conclusion, the City believes that the intent of the Proposed Trash Amendments has merit, but fails to address the issue in a well-rounded and scientific manner. We look forward to working with the Board on a collaborative process to move this issue forward and create a consistent trash policy that also addresses the unique nature of each community. Based on our comments and those comments and concerns expressed by stakeholders at the July 16, 2014 workshop, the City requests that Amendments is released for public review that the entire document, not just the changed text, be open for further comment. This will allow stakeholders to consider the revisions in the context of the entire proposal.</p>		

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30.1	<p>The City 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 trash amendments and develop a sound approach for protecting beneficial uses that are impaired due to trash.</p>		<p>The State Water Board has undergone an extensive stakeholder engagement with the proposed Trash Amendments in order to create a program to provide statewide consistency and flexibility to protect beneficial uses that are impaired due to trash. (See Final Staff Report Section 2.14.) Please see Response to Comment 10.12.</p>
30.2	<p>We support the use of the narrative water quality objective as proposed as it provides a clear, concise definition from which the City can prioritize management decisions using our existing watershed management plans. The City also supports the option of developing and implementing regulatory source controls and the potential for time extensions where these are implemented. As proposed, the State Board has provided incentives for local jurisdictions to develop innovative approaches to regulatory compliance.</p>		<p>Comment noted. The State Water Board is appreciative of the support.</p>
30.3	<p>The Proposed Trash Amendments need to recognize time schedule differences between implementation and certification of full capture systems. While the Los Angeles TMDL program has provided a list of certified full captured systems, the Proposed Trash Amendment should allow permit holders an opportunity to evaluate additional full capture</p>		<p>The State Water Board does not anticipate that the timing of implementation plans and certification of full capture systems will be an issue. In addition to systems certified by the Los Angeles Water Board, the Trash Amendments have been modified to incorporate full capture systems listed in Appendix I of the Bay Area-wide Trash Capture Demonstration Project. This provides a wide range of full capture systems to begin development of an implementation plan based on the existing market conditions for full capture systems. (See Final Staff Report Section 5.1 and the Ocean Plan Amendment and Part I</p>

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	<p>systems that are applicable at the local level. It is recommended that the compliance schedule start when the Certification of a Full Capture Systems proposed by a permit holder has been approved by the State Board.</p>		<p>ISWEBE definition for “full capture systems.”)</p>
30.4	<p>It appears that the Proposed Trash Amendments will in effect be an alternative to a TMDL, thereby preventing the need to develop trash TMDLs in the future. The City recommends additional language be added to clarify the intent of the State Water Resources Control Board with respect to the development of future TMDLs and that implementation of the Proposed Trash Amendments represents a single regulatory action addressing MS4 NPDES Permittee requirements thereby removing the need to develop wasteload allocations via a TMDL for MS4 NPDES Permittees. Multiple pollutant TMDLs are allowed 20 year compliance schedule to achieve the necessary load reductions. Recommendation - Expand the compliance schedule to 20 years when trash is being included in a watershed with other TMDLs.</p>		<p>Please see Responses to Comments 7.7 and 10.10.</p>



Comment Letter	Comment	Recommended Language	Response
30.5	<p>It is unclear whether implementation of Track 1 or 2 would ensure compliance with all of the provisions in the Proposed Trash Amendments, including the water quality objectives. Language should be included within the Proposed Trash Amendments to state that implementation of Track 1 or Track 2 constitutes compliance with the discharge prohibitions and receiving water limitations.</p>	<p>Recommendation- Amend language in III.I.6 (Ocean Plan) and IV.B.2 (Inland Surface Waters, Enclosed Bays, and Estuaries Plan) as follows: The discharge of Trash to surface waters of the State, or the deposition of Trash where it may be discharged into surface waters of the State is prohibited. Compliance with this prohibition of discharge <u>and with the receiving water limitations shall be achieved</u> as follows:</p>	<p>Please see Response to Comments 4.1 and 10.9.</p>
30.6	<p>The Proposed Trash Amendments do not account for current watershed planning and prioritization efforts are occurring throughout southern California. Under the current Phase I MS4 Permit for the San Diego Region (Order R9-2013-0001), the watershed co-permittees and stakeholders (including San Diego Water Quality Control Board, Region 9 staff) are required to identify, assess, and prioritize pollutants, including trash, within the various watersheds in the San Diego region. As proposed, the Proposed Trash Amendments will supersede recent planning efforts, diverting limited</p>	<p>Recommendation- Modify language in Section III.L.2.a. (Ocean Plan) and IV.B.3.a. (Inland Surface Waters, Enclosed Bays, and Estuaries Plan) as follows: a. <u>For discharges to water bodies in which the beneficial uses are impaired by trash or discharges to water bodies located in regions where MS4 permittees have determined trash to be a highest priority</u></p>	<p>Please see Response to Comment 11.9.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>resources from the highest priority water quality conditions (e.g., bacteria) within a particular watershed to trash, which has often not been found to be the highest priority water quality condition in a watershed. The watershed planning and prioritization process in the Proposed Trash Amendments is well aligned with the San Diego Regional Water Quality Control Board's Practical Vision for protecting receiving waters. The Practical Vision creates a set of guiding principles including prioritization of water quality conditions based on receiving water quality, which is followed by implementation of strategies to address the highest priority water quality conditions. Implementation of the Proposed Trash Amendments should be required in watersheds where either trash has been identified as causing impairment or, if through a watershed management planning process, trash has been identified as the highest priority water quality condition. Where trash has not been identified as causing an impairment or as a highest priority water quality condition, it should be addressed according to current MS4 Permit requirements.</p>	<p><u>water quality condition pursuant to a watershed management program required under a MS4 Permit. MS4 permittees with regulatory authority over priority land uses shall comply with the prohibition of discharge in Chapter III.1.6.a. herein by either of the following measures:</u></p>	

Comment Letter	Comment	Recommended Language	Response
30.7	<p>The Proposed Trash Amendments state "treatment controls likely to be used for compliance with the proposed Trash Amendments may include installation of catch basins inserts within existing catch basins." In many cases, municipalities are moving toward LID installations, so installing a catch basin insert may not line up with the green infrastructure plans. While LID is included as an option under Track 2, the amendments and certified trash capture devices should recognize LID measures under Track 1, as full-capture devices.</p>	<p>Recommendation- Amend language for Track 1 as follows:            (1) Track 1: Install, operate and maintain full capture systems (e.g., catch basin inserts, hydrodynamic separators, low impact development BMPs)</p>	<p>The State Water Board aims to utilize storm water as a resource to improve water quality and supply, as well as protect and restore key watershed processes such as overland flow, groundwater recharge, and pollutant uptake. When done properly, catch basins can help reduce flooding, mitigate storm water pollution, enhance habitat, and improve water use efficiency. Low impact development is a key BMP to treat storm water as a resource. If low impact development projects and multi-benefit projects can be demonstrated and certified to be full capture systems, then these projects will be considered applicable under Track 1. Additionally, please see Response to Comment 10.5 for more discussion on full capture system certification. (Ocean Plan Amendment and Part I ISWEBE definition for "full capture system.")</p>
30.8	<p>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. This would trigger compliance requirements for a storm drain even if only a very small portion of a priority land use drains to the storm drain.</p>	<p>Recommendation- Amend language for Tracks I and II to designate a threshold (e.g., priority land use covers a percent of the catchment area) that would trigger implementation within the catchment.            (1) Track 1: Install, operate and maintain full capture systems in their jurisdictions for all storm drains that capture runoff in catchment areas where priority land uses comprise &gt;25% of the land area in the catchment area.</p>	<p>Please see Response to Comment 11.4.</p>

Comment Letter	Comment	Recommended Language	Response
		<p>(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 capture runoff in catchment areas where priority land uses comprise &gt;25% of the land area within the catchment area.</p>	
30.9	<p>As defined in the Proposed Trash Amendments, the defined priority areas may not be appropriate for all jurisdictions because they do not consider local knowledge of receiving water conditions and previous data collection efforts. As currently drafted, the amendments assume that there is a problem in the defined priority areas, effectively imposing a costly "one size fits all"</p>	<p>Recommendation- Modify language in Section III.L.2. (Ocean Plan) and IV.B.3 (Inland Surface Waters, Enclosed Bays, and Estuaries Plan) by adding Section III.L.2.e and IV.B.3.e, respectively, as follows: e. <u>A regulated MS4</u></p>	<p>Please see Responses to Comments 10.7 and 15.2.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>approach onto the local jurisdictions. The City supports the concept of prioritized land uses to address problem areas; however, the approach should allow for more local flexibility in this prioritization. The City 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 Regional Boards to designate additional priority areas, it does not appear to provide flexibility for Responsible Agencies to lower the priority in certain areas. Local knowledge, supported by data, should suffice as justification for local jurisdictions to designate appropriate drainage areas as "non-priority," regardless of land use.</p>	<p><u>permittee may determine which priority land use areas in its jurisdiction generate trash accumulation in receiving waters (or in areas adjacent to receiving waters) in such amounts that do not adversely affect beneficial uses, or cause a nuisance condition. In the event that the regulated MS4 permittee identifies such areas and provides data supporting such a finding, the permitting authority may waive the compliance requirement of Chapter III.L.2.a/IV.B.3.a for that MS4 permittee with respect to the identified priority land use locations. The regulated MS4 permittee shall submit documentation supporting a continued finding of no beneficial use impairment or nuisance condition with annual reports as required under Section III.L.6/IV.B.7.</u></p>	

Comment Letter	Comment	Recommended Language	Response
30.10	<p>Construction sites may generate significant amounts of trash and the City supports regulation of trash from facilities covered under the Construction General Permit. However, where construction does not result in the developed site falling into a priority land use category under the Proposed Trash Amendments, controls specific to trash should only be required during construction.</p>	<p>Recommendation- Add language in Section III.L.2.c (Ocean Plan) and IV.B.3.c (Inland Surface Waters, Enclosed Bays, and Estuaries Plan) to clarify. Termination of permit coverage for industrial and construction storm water dischargers shall be conditioned upon the proper operation and maintenance of all <u>post-construction controls as required by local land development regulations</u> (e.g., full capture systems, other treatment controls, institutional controls, and/or multi-benefit projects) used at their facility(ies).</p>	<p>It is not the intention of the State Water Board to add a significant burden to construction site dischargers. The current Construction General Permit already has prohibition on trash (debris) which may prove adequate to implement the Trash Amendments. Please see Responses to Comments 5.1-3.</p>
30.11	<p>Through provisions III.L.2.d and III.L.3 (Ocean Plan) and IV.B.3.d and IV.B.4 (Inland Surface Waters, Enclosed Bays, and Estuaries Plan), the Regional Water Quality Control Board is provided discretion to add additional requirements for other sources, including non-point sources. While local flexibility may be appropriate (see Comments #3, #6), a statewide approach that provides broad discretion to Regional Water Quality Control</p>	<p>Recommendation - The Proposed Trash Amendments should provide clear guidance on how the discretion should be used by the Regional Water Quality Control Boards.</p>	<p>Please see Response to Comment 11.5.</p>

Comment Letter	Comment	Recommended Language	Response
30.12	<p>Boards can result in uneven implementation and undermines the concept of a statewide approach.</p> <p>It is evident that other regulated sources (e.g., individual NPDES permit holders, agricultural operations) often contribute trash to receiving waters. While the City continues to work with its partners to identify successful management strategies for preventing trash from reaching receiving waters, it is critical that the Proposed Trash Amendments limit the liability of MS4 Permit holders for these other regulated sources and support a process that allows the City to apply its resources towards controlling trash within its areas of responsibility. The City recommends that the State Water Resources Control Board require that other regulated entities (e.g., individual NPDES permit holders, agricultural operations) implement the Proposed Trash Amendments through a regulatory process external to the NPDES Phase I and Phase II MS4 permits.</p>	<p>Recommendation- Language in III.L.3 (Ocean Plan) and IV.B.4 (Inland Surface Waters, Enclosed Bays, and Estuaries Plan) appears to provide direction/authority to the permitting authority to address other sources of trash. Examples should be added to include other NPDES permit holders and agricultural operations. The language could be strengthened by citing the authority from which this oversight is provided in the California Water Code (i.e., CWC §13263, 13267). The State Water Resources Control Board should also include provisions to require implementation of the Proposed Trash Amendments, not only through inclusion in MS4 Permits, but through other NPDES Permits, WDRs, and Waiver Provisions.</p>	Please see Response to Comment 10.6.

Comment Letter	Comment	Recommended Language	Response
30.13	<p>The City supports the option for time extensions where regulatory source controls are implemented and supports the concept of allowing credit for source control programs that are implemented prior to the effective date of the Proposed Trash Amendments. However, source control initiatives can take many years to come to fruition. Therefore, limiting the timeframes for implementation to three years from adoption may not be sufficient time to conduct research and outreach to communities in order to gain local support for true source control methodologies that may require behavioral changes on the part of the public. Due to the significant time necessary to develop and implement regulatory source controls, the three-year implementation timeframe in order to be considered for a time extension of the full compliance requirements, should be removed. In cases where regulatory source controls are employed within the 1 0-year compliance timeframe, Responsible Agencies should be eligible for the one year time extensions.</p>	<p>Recommendation- Modify language in Section III.L.5 (Ocean Plan) and IV.B.6 (Inland Surface Waters, Enclose Bays, and Estuaries Plan) as follows: The permitting authority may give MS4 permittees that are complying under Chapter III.L.2.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 ten (10) years of the effective date of these Trash Provisions. Each regulatory source control employed by an MS4 permittee will be eligible for up to a one (1) year time extension.</p>	<p>Please see Response to Comment 4.5.</p>



Comment Letter	Comment	Recommended Language	Response
30.14	<p>Demonstration of performance under Track 2 should not be limited to monitoring. MS4 permittees should be allowed to propose the method of demonstrating performance in their implementation or watershed management plans. Receiving water monitoring should not be required since other sources outside of the control of MS4 permittees may contribute trash. While an entity may decide to conduct receiving water monitoring to demonstrate performance, it should not be mandated in the event another method is more appropriate (e.g., pounds of trash removed through a control measure). Further, The City has managed an extensive monitoring program for evaluating trash conditions at the MS4 major outfalls for 11 years. It is important for the Proposed Trash Amendments to recognize the value of existing data sets to answer management questions about the status and trends of any trash discharged from the MS4. As such, the Proposed Trash Amendments should include the flexibility to allow existing trash monitoring programs to continue under the Track 2 implementation requirements for areas that are not represented by a full capture device.</p>	<p>Recommendation:            Include a provision in Track 2 monitoring requirements to allow for existing monitoring programs to fulfill implementation requirements at MS4 outfalls not fitted with a full capture device, as long as monitoring efforts demonstrate that trash is not accumulating in amounts that adversely affect beneficial uses or cause a nuisance condition.</p>	<p>Please see Response to Comment 4.6.</p>

Comment Letter	Comment	Recommended Language	Response
30.15	<p>The Proposed Trash Amendments indicate that the State Water Resources Control Board will 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. 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 MS4 permittees to develop credible costs estimates that inform the 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 timeframe for obtaining certification is a concern. The Executive Officer approval process needs to have a rapid turnaround time to allow permittees to move forward with planning and installation within the time schedule granted.</p>	<p>Recommendation- Amend language in Appendix I to define full-capture systems as follows: 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 unless they meet the criteria for full capture systems as defined above. Recommendation - Modify the compliance schedule to start when the state of California provides a list of certified full capture systems.</p>	<p>Please see Response to Comment 10.5.</p>

Comment Letter	Comment	Recommended Language	Response
30.16	<p>The City has many responsibilities and recognizes the importance of finding cost-effective approaches to provide the services our community requires and expects, while providing safe and clean water. As one of the largest cities in California, the expected costs to implement the Proposed Trash Amendments will be substantial and the value of implementing the provisions on a City-wide basis is uncertain given that trash has often not been identified as a receiving water priority through the watershed planning processes required under the current MS4 Permit (Order R9-2013-0001). Furthermore, the City's funding is limited and catch basin inserts and other likely control devices will not be considered eligible for the water supply exception resulting from AB2403. As noted in previous comments (see comments #3, #6), the City would prefer that the Proposed Trash Amendments allow local jurisdictions to prioritize trash as a highest priority water quality condition, where substantiated, by taking into account all other water quality conditions and regulatory obligations. Further, the City should be allowed to use recently collected data to evaluate existing land uses to determine where there is a need for trash control, thus resulting in the implementation of controls where</p>	<p>Recommendations- Modify language in Section III.L.2.a. (Ocean Plan) and IV.B.3.a. (Inland Surface Waters, Enclosed Bays, and Estuaries Plan) as follows:  (1) For discharges to water bodies that are <u>impaired by trash and for discharges to water bodies located in regions where MS4 permittees have determined trash to be a highest priority water quality condition pursuant to a watershed management program required under a MS4 Permit, MS4 permittees with regulatory authority over priority land uses.</u>  (2) Modify language in Section III.L.2. (Ocean Plan) and IV.B.3 (Inland Surface Waters, Enclosed Bays, and Estuaries Plan) by adding Section III.L.2.e and IV.B.3.e, respectively, as follows:  e. A regulated MS4 permittee may determine <u>which priority land use areas in its jurisdiction generate trash</u></p>	<p>Please see Response to Comment 11.9.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>necessary and appropriate. It would not be a prudent use of public funds to implement trash controls in all priority land uses, as designated in the Proposed Trash Amendments, without a local evaluation of the problem where data are available.</p>	<p><u>accumulation in receiving waters (or in areas adjacent to receiving waters) in such amounts that do not adversely affect beneficial uses, or cause a nuisance condition. In the event that the regulated MS4 permittee identifies such areas and provides data supporting such a finding, the permitting authority may waive the requirement of Chapter III.L.2.a/IV.B.3.a for that MS4 permittee with respect to the identified priority land use locations. The regulated MS4 permittee shall submit documentation supporting a continued finding of no beneficial use impairment or nuisance condition with annual reports as required under Section III.L.6/IV.B.7.</u></p> <p>Recommendation - Please provide all calculations, notes, and assumptions used to determine proposed costs shown in Appendix C, Section V.</p>	

Comment Letter	Comment	Recommended Language	Response
31.1	City of San Jose supports the recommendations in the BASMAA comment letter.		Please see Responses to Comment Letter 4.
31.2	Provide consistency between the proposed narrative Water Quality Objective and trash discharge prohibitions by revising the prohibitions to include language that qualify that the trash discharges being prohibited and controlled by the specified implementation requirements, is the trash "in amounts that cause impairment of beneficial uses or conditions of nuisance in receiving waters".		Please see Response to Comments 4.1 and 10.9.
31.3	Create an alternative that supports the progress of the Bay Area Phase I MS4s. San Jose and other cities regulated under the Bay Area Phase I permit have already spent considerable time and resources identifying, mapping, assessing, and programming high trash generating areas in their respective jurisdictions. The option of an alternative track will allow Bay Area cities to continue to focus on their high trash generation areas and implement their specific implementation plans. As currently written, Track 2 uses simplified land use designations to identify high trash generation areas. This varies significantly from the approach established by the Bay Area Phase I permittees. The proposed Track 2 approach does not contemplate the		Please see Response to Comment 4.2.

Comment Letter	Comment	Recommended Language	Response
	<p>importance and necessity of applying local knowledge, nor does it account for site-specific variation. While Track 2, as currently drafted, will provide a valuable roadmap for Phase II jurisdictions that have not yet developed plans for trash reduction, it represents a step backward for San Jose and other cities that have spent years and millions of tax dollars preparing and submitting the required planning and compliance documentation and have made significant progress in targeting high priority trash generation areas.</p>		
31.4	<p>The City supports the use of Institutional Controls as discussed in the State Amendments. However, granting a brief time extension for regulatory source control efforts, understates the significance of such actions in improving on-land and receiving water conditions. The City also recommends that the State Board use its authority to incentivize local government collaboration to support statewide advocacy for development of product and packaging redesign, take-back programs, and deposit legislation. The State Board has an opportunity to provide incentives for creating a collaborative environment that bring local governments together with regulators, private industry, and other stakeholders to work on</p>		Please see Response to Comment 4.5.

Comment Letter	Comment	Recommended Language	Response
	product stewardship initiatives aimed at specific items such as cigarette butts and other forms of single-use packaging.		
31.5	The City recommends that the State Board add language that more clearly specifies the expectation that Caltrans and MS4 Phase II permittees will coordinate and fully capitalize on the opportunities presented by combining resources.		The State Water Board agrees that Caltrans and MS4 Phase I and Phase II permittees will have greater success of controlling trash in overlapping jurisdictions if they coordinate and full capitalize on the opportunities presented by combining resources in overlapping jurisdictions. (Ocean Plan Amendment III.L.2.b; Part I ISWEBE IV.A.3.b.)
32.1	There is no calculation or reporting standards listed in the proposed Trash Amendments. It is expected that reporting will be addressed in later versions.		The Trash Amendments provide the framework for minimum reporting and monitoring requirements that must be included in the implementing permit. Please see Responses to Comments 4.6 and 6.2.
32.2	Economic impacts should be considered, whether it be for full capture devices or additional programs. MS4 Permittees are struggling to maintain the current requirements. Requiring additional infrastructure or programs will further strain fiscal resources. Proposition 218 remains a major issue to consider when asking our citizens to fund these additional requirements.		Please see Response to Comment 10.4.
32.3	While ten to 15 years may seem like a long time, it is relatively short when taking into account the research, planning, bidding, funding, construction, and compliance with other regulations MS4 Permittees must consider. At a minimum, a 20		For statewide consistency and recognizing the need for site-specific flexibility, a ten year compliance schedule was developed for both Track 1 and Track 2. As permits are updated every five years, a ten year compliance schedule allows for adaptive management of the implementation plan to control trash. A ten year compliance schedule provides a sufficient amount of time for trash control with either Track 1 or

Comment Letter	Comment	Recommended Language	Response
	year timeframe should be considered.		Track 2 to be successful. A reduced compliance time for Track 2 may result in less effective programs at control trash. For these reasons, both Track 1 and Track 2 should have a ten year compliance schedule. (See Ocean Plan Amendment III.L.4 and Part I ISWEBE IV.A.5.) Additionally please see Response to Comment 7.7 and Staff Report section 2.5.
32.4	Instead of piecemeal treatment devices and programs for trash are the purpose of the Trash Amendments, projects that offer multiple benefits should be given priority. It is understood that trash is a visible nuisance, but projects that treat for multiple pollutants or act to replenish local groundwater should be considered more beneficial and a better use of resources. An efficient use of resources should be viewed as far more favorable by the regulators as well as our local and state citizens.		The State Water Board agrees with this comment. The Storm Water Program at the Water Boards encourages the management of storm water as a resource. The main objective of treating storm water as a resource is to protect and restore those watershed processes that are critical to watershed health. Multi-benefit projects that infiltrate and treat storm water runoff are encouraged within MS4 Phase I and Phase II permits. Within Track 2, multi-benefit projects are a supported method of compliance to control trash. In addition to trash control, multi-benefit projects treat other storm water runoff priority pollutants. As a whole, multi-benefit projects prevent impacts from flooding, mitigate storm water pollution (such as trash), create open space, enhance fish and wildlife habitat and improve water efficiency. (See Final Staff Report Section 5.4.)
32.5	Storm drain drainage areas are not specific to land-use areas. The regulated drainage areas should be defined as having more than 75% of the specified land-use in order to address the area.		Please see Response to Comment 11.4.



Comment Letter	Comment	Recommended Language	Response
32.6	<p>It should be acknowledged that land-use areas are dispersed throughout communities and are not necessarily in defined quadrants. Municipal activities such as street sweeping routes are based on clustered areas and are not based on land-use zones. Measurements or reporting for specified land-use would be impossible or exceptionally difficult. Land-use areas should be amalgamated or defined as 75% or more.</p>		<p>Please see Response to Comment 11.4.</p>
32.7	<p>There is a perception that new regulations will affect properties that are privately owned and are already developed. With a specified timeframe to install treatment devices, requiring private properties to install treatment devices creates an eminent domain issue that creates a wide-variety of issues. It should be specified that treatment devices shall be required only on land that is within the public right-of-way or publically owned.</p>		<p>Please see Responses to Comments 11.4 and 25.1.</p>
33.1	<p>Santa Maria supports the State Board staffs decision to use a narrative water quality objective for trash. The narrative objective provides a clear standard that all can understand and that the City can use to prioritize its programs. The City agrees with State Board staff's recommendation not to use a numeric objective of "zero trash".</p>		<p>The State Water Board appreciates the support on a narrative water quality objective for trash.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>While the City can and will continue to control and address many sources of trash, there are many sources that even the best program cannot control in all cases. A numeric objective is therefore not feasible in this situation, and Santa Maria urges the State Board to support staff's recommendation on this important question.</p>		
33.2	<p>Santa Maria generally supports the focus in the proposed Trash Amendments on priority land uses as a means of identifying key areas within the City where limited resources should be allocated to achieve maximum control benefit. The City believes that this approach should be refined and improved, but State Board staff's recommendation to focus trash controls on areas with high trash generation rates is the correct one and Santa Maria hopes the State Board supports it.</p>		<p>The State Water Board appreciates the support for prioritization of land uses for trash control.</p>
33.3	<p>As proposed, the Trash Amendments provide that the City could achieve compliance with the prohibition on the discharge of trash by implementing either Track 1 or Track 2. The clarity of this path to compliance with the discharge prohibition is appreciated and welcomed by the City. To provide similar clarity with regard to achieving compliance with the receiving water limitations language</p>		<p>Please see Response to Comments 4.1 and 10.9.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>contained in the City's MS4 permit, which has been interpreted to require strict compliance with water quality objectives, the State Board should include a provision in the Trash Amendments that links compliance with the discharge prohibition to compliance with the narrative water quality objective. This level of regulatory certainty is important to support the City's ability to make the large capital investment that will be required to address trash under either Track 1 or Track 2. If implementation of either Track 1 or Track 2 results in compliance with the discharge prohibition, such compliance should also result in achievement of the water quality objective and compliance with the receiving water limitations language in the City's MS4 permit.</p>		
33.4	<p>Many municipalities in California are currently moving toward a watershed-based approach to achieving water quality requirements. There appears to be a scientific and regulatory consensus that a watershed-based approach that involves multiple stakeholders represents a better way to address water quality problems, as opposed to a narrow jurisdictional focus. Santa Maria is currently developing an Integrated Plan that is designed to look at all of the City's water quality obligations in a watershed-</p>		Please see Response to Comment 11.9.

Comment Letter	Comment	Recommended Language	Response
	<p>based context that will put the City in the best position to achieve all of its obligations through a consolidated approach. The concern with the Trash Amendments is that it prioritizes trash as a water quality concern above other sources of water quality impairment that may be more pressing on a watershed basis. Therefore, the City requests that the State Board consider adding language to the Trash Amendments that would allow for prioritizing issues for each watershed, through efforts such as the City's Integrated Plan or other similar approaches.</p>		
33.5	<p>Santa Maria supports the use of prioritized land uses to focus efforts in areas with the greatest contribution of trash. However, the proposed Trash Amendments should allow the City to determine at the local level which land uses contribute the greatest amount of trash in Santa Maria. While the Trash Amendments allow the City to identify additional land use types that should be prioritized, the document does not appear to allow the City to remove prioritized land use types. The Trash Amendments should establish a process to both add and delete prioritized land use types so that localized efforts can focus on the areas with the greatest contribution of trash.</p>		Please see Responses to Comments 10.7 and 12.2.

Comment Letter	Comment	Recommended Language	Response
33.6	<p>The Trash Amendment as proposed would establish a ten- to 15-year implementation timeline (10 years after the next permit adoption or 15 years, whichever occurs first). Implementation of either Track 1 or Track 2 will take time and a large capital investment. As with any large-scale public works project, it will take time for the City to plan, design, fund, and install the devices needed to implement the program. In addition, it will take time for the City to educate its community and change community norms regarding trash. A time horizon of 15-20 years would better reflect the implementation challenges the City will face.</p>		Please see Response to Comments 32.3.
33.7	<p>Because the Trash Amendment seeks to establish a statewide policy and approach to addressing trash, the Trash Amendment should specify that the policy and implementation approach replaces the need to develop local TMDLs for trash. Since the Trash Amendments are designed to establish compliance with the water quality objective for trash over the compliance period, it would appear to negate the need for local TMDLs or additional listing of impairment of trash.</p>		Please see Response to Comment 10.10.
34.1	<p>While the City generally supports the State Boards efforts with the proposed Amendments, the policy is</p>		The Trash Amendments aim to establish a narrative water quality objective for trash and a prohibition of discharge, and then a set of implementation provisions to achieve compliance

Comment Letter	Comment	Recommended Language	Response
	<p>focused on achieving 100% trash capture from the storm drain system (Page 11, Table 1) while the overall objective is focused on prohibiting trash accumulation in the waterway, "No trash shall accumulate in state waters (or in areas adjacent to state water) in amounts that would either adversely affect beneficial uses, or cause nuisance" (Page 11, 2.2). These two items appear to be inconsistent.</p>		<p>with the water quality objective and prohibition of discharge. These implementation provisions focus on controlling the discharge of trash from the areas and locations that generate highest amounts of trash. The Trash Amendments do not aim for a 100 % reduction of trash to state waters but reduction from the high trash generating areas that adversely affect beneficial uses or cause harm. Additionally, please see Response to Comment 4.1.</p>
34.2	<p>It is the City's experience that a significant percentage of the trash in our waterways is from homeless encampments, and is not in fact conveyed through the storm drain system. As written, the City could go through the resource intensive process of achieving full capture from the storm drain system and still not achieve the water quality objective. It is requested that the language of the objective be revised to specify that if no accumulation occurs as a result of discharge of trash from the storm drain system. Alternatively it is requested that the language in the proposed compliance tracks be revised to include the requirement to address trash that reaches the waterways through routes other than the storm drain system.</p>		<p>Although the implementation provisions for compliance with the prohibition of discharge focus on trash discharge via storm water, it is well recognized that trash is transported in surface waters via both point and non-point sources. The dual alternative "compliance track" approach provides flexibility to determine the most effective means of controlling trash while taking into consideration particular site conditions, types of trash, and the available resources for maintenance and operation. Specifically, Track 2 makes available a wide range of trash control strategies, from treatment to institutional controls, to target the high trash generating areas. Additionally, the permitting authority has the discretion to determine other land use or locations generate substantial amounts of trash and require trash controls. The permitting authority may also issue WDRs or waivers of WDRs to the land owner for other trash generating areas or facilities to address trash. Please see Responses to Comments 6.5 and 6.6.</p>

Comment Letter	Comment	Recommended Language	Response
34.3	<p>In order to achieve full trash capture, the City would need at to invest an estimated minimum of \$1.2 million into storm drain improvements plus an additional \$1.2 million per year for maintenance. These dollar figures are substantial as the City has very limited funds and is limited in its ability to collect fees to fund this program by Proposition 218. It is requested that the State Board support the ability of Permittees to secure funding sources for storm water quality programs, such as this trash policy.</p>		<p>Please see Response to Comment 10.4.</p>
34.4	<p>In order to adequately address the systemic trash issue, high trash generating industries and sources need to be targeted in addition to implementing trash capture. It is requested that the State Board partner with State and Federal programs, such as CalRecycle (formally the Integrated Waste Management Board), to support policies, laws, and practices to reduce packaging and trash generation at the source.</p>		<p>State Water Board and CalRecycle staff worked in the development of the Trash Amendments and agree that there is a synergy between reducing trash at the source and controlling trash as a pollutant.</p>
35.1	<p>The City supports the use of the narrative water quality objective as proposed. This narrative objective provides a clear, concise definition from with the City can prioritize management decisions. As a Phase I MS4 permittee, the City also appreciates the two track for</p>		<p>The State Water Board appreciates the support for the narrative water quality objective for trash and two tracks. Please see Response to Comments 4.1 and 10.9.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>compliance with the Proposed Trash Amendments. As proposed, the Trash Amendments would consider the City to be full compliance with the prohibition of trash discharge, as long as the City implements either Track 1 or Track 2. The proposed Trash Amendments, however, do not clearly indicate that meeting the discharge probation requirements would also mean the City is in compliance with receiving water limitations. This lack of clarity could result in the City being subject to further regulation for receiving water, even if it is in compliance with the Proposed Trash Amendments.</p>		
35.2	<p>The Proposed Trash Amendments also identify, but do not address certain significant source categories and transport pathways for trash. These include wind, illegal littering, illegal encampments in riverbeds, and water recreation/cruise ships. It is unclear who is responsible for attaining the trash water quality objective for trash from sources and pathways unaddressed by the Proposed Trash Amendments.</p>		<p>The Trash Amendments recognize that there are many pathways of trash to reach surface waters, and they aim to protect from amounts that adversely affect beneficial uses. The Trash Amendments focus on controlling trash transported via storm water to surface waters in the areas and location that generate the highest amounts of trash. While the focus of the Trash Amendments is not on the other sources of trash, the permitting authority has the ability to determine additional areas and locations to require trash controls through NPDES permits, WDRs, waivers of WDRs, and enforcement. (See Final Staff Report Appendix A.) Additionally please see Response to Comment 6.5.</p>
35.3	<p>The proposed Trash Amendments do not clearly indicate that meeting the discharge prohibition requirements would also mean the City is in compliance with receiving water limitations. This lack of clarity could result in the City being subject</p>		<p>Please see Response to Comments 4.1 and 10.9.</p>



Comment Letter	Comment	Recommended Language	Response
	<p>to further regulation for the receiving water, even if it is in compliance with the Proposed Trash Amendments. The City requests the addition of language to the Proposed Trash Amendments indicating the MS4 permittees will be in compliance with receiving water limitations so long as they are fully implementing Track 1 or Track 2.</p>		
35.4	<p>The City requests that language 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. Further, waters listed as impaired for trash should be removed from the 303d list because the Proposed Trash Amendments address the impairment.</p>		Please see Response to Comment 10.10.
35.5	<p>The City requests that language be included in the Proposed Trash Amendments to accommodate local and regional processes for prioritizing pollutant issues for each watershed, such as the WQIP. The City also requests language is included in the Proposed Trash Amendments that would provide a process to exclude from, modify, or delay implementation of the Proposed Trash Amendment requirements for those watersheds</p>		Please see Response to Comment 11.9.

Comment Letter	Comment	Recommended Language	Response
	<p>and subwatersheds where trash is not identified as a high priority water quality concern. The City also requests language be included in the Proposed Trash Amendments that would allow agencies, such as MS4 permittees, to complete a watershed based trash assessment, confirm the applicability of the Proposed Trash Amendments to each waterway, and allow time for industry to implement effective solutions to identified sources of trash.</p>		
35.6	<p>The Proposed Trash Amendments are being proposed without adequate consideration of the funding sources for implementing the amendments' requirements. The City has no clear source of funding to meet these requirements and believes these obligations constitute an unfunded mandated. Prior to approval of the Trash Amendment, the City requests the Board conduct a full assessment of the costs and benefits of the Proposed Trash Amendment. The City requests that language be added to the Proposed Trash Amendments allowing delayed implementation until a funding source is identified for the implementation and ongoing maintenance of the structural controls required to capture trash.</p>		<p>Please see Responses to Comments 10.4 and 29.4. Additionally, under state law, the State Water Board does not perform a cost benefit assessment.</p>

Comment Letter	Comment	Recommended Language	Response
35.7	<p>The City requests that language be added to the Proposed Trash Amendments that allows the City to adequately evaluate, designate, and prioritize those areas that would realize the greatest benefit. Including a process by which the City may lower the priority of areas that the Proposed Trash Amendments currently designates as "high priority" is essential to effective implementation.</p>	<p><u>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.</u></p>	<p>Please see Responses to Comments 10.1 and 10.7.</p>
35.8	<p>The City requests that the language in the Proposed Trash Amendments, establishing a ten- to 15-year implementation timeline, be revised to establish a 15- to 20-year timeline (i.e., 15 years after the next permit adoption or 20 years, whichever</p>		<p>Please see Response to Comment 7.7.</p>

Comment Letter	Comment	Recommended Language	Response
36.1	<p>occurs first).</p> <p>Our city is participating in two Watershed Management Programs (WMPs) pursuant to the requirements of Los Angeles Regional Board Order No. R4-2012-0175. One of these is for the Lower Los Angeles River Watershed, and the other is for the Los Cerritos Channel Watershed. The Lower Los Angeles River WMP lists trash as a highest priority pollutant since there is a trash TMDL for the Los Angeles River. The Los Cerritos Channel WMP lists trash as a high priority pollutant because there is a 303(d) listing for trash for the Los Cerritos Channel, but there is not yet a TMDL for trash for this water body. The proposed Trash Amendments would functionally make trash a highest priority pollutant for the Los Cerritos Channel Watershed. The Trash Amendments would also make trash a priority pollutant for the defined "priority land uses" statewide, even though the receiving waters for land uses might not have been determined to be impaired for trash.</p>		<p>The Water Boards are charged with protecting all beneficial uses from pollution and nuisance that may occur as a result of waste discharges in the region. The State of California recognizes that trash is a high priority pollutant that impairs the beneficial uses of aquatic life and public health, causes an aesthetic nuisance, and reduces the economic value of California's recreation areas. The presence of trash in surface waters, especially coastal and marine waters, is a prevalent issue in California. As the City of Signal Hill is participating in two Watershed Management Programs where trash is listed as a high priority pollutant, the State Water Board does not see a conflict with existing permit prioritizations and the Trash Amendments. Additionally, please see Response to Comment 11.9.</p>
36.2	<p>The fact that the three Regional Water Boards with 71 of the 72 trash listings already have programs in place to address trash indicates that the Trash Amendments, as drafted, are not necessary. There is a need to ensure that where trash TMDLs or</p>		<p>Regardless of current 303(d) listings for trash, trash is a problem statewide. The Trash Amendments aim to provide statewide consistency to reduce trash discharge from the areas that generate the highest amounts of trash. The Trash Amendments would establish a prohibition of discharge on preproduction plastics as well as establish a definition for trash. (See Ocean Plan Amendments III.1.6; Part I ISWEBE IV.A.2.)</p>

Comment Letter	Comment	Recommended Language	Response
36.3	<p>other measures to address trash impairments are developed permittees are allowed to focus on truly high trash generation areas and catch basins. The application of a prohibition of discharge of preproduction plastic by manufacturers of preproduction plastics, transporters of preproduction plastics and manufacturers that use preproduction plastics in the manufacture of other products is also needed. In addition, there should be statewide definitions of trash and debris.</p> <p>The Trash Amendments, as currently drafted, will likely result in multiple unintended consequences. First the de facto definition of trash as a high priority pollutant will likely result in the diversion of funds away from addressing local water quality issues such as listed impairments and other local pollutants of concern since, in the absence of major stormwater quality funding programs, most local governments have limited money available to address water quality. Secondly, making trash a high priority pollutant in the absence of a 303(d) listing for trash may cause financial hardships. Especially for Phase II MS4s, since neither of the specified compliance tracks is inexpensive.</p>		Please see Responses to Comment 10.4.

Comment Letter	Comment	Recommended Language	Response
36.4	<p>This assessment, prepared by the Coalition for Environmental Protection, Restoration and Development, is not listed in the References section of the Draft Staff Report, and it should be reviewed before any action is taken on the proposed Trash Amendments. For the convenience of the Board. It is attached to this comment letter.</p>		<p>Thank you for your comment and attached report.</p>
36.5	<p>The focus of the proposed Trash Amendments on five priority land uses is a good start to focusing on high trash generation areas. By focusing on high density residential (with at least 10 developed residential units per acre). Industrial, commercial mixed urban, and public transportation station land uses. the areas addressed by either Track 1 or Track 2 procedures could be reduced by 50% or more of a municipality's land area, depending on the density and location of transportation stations. However, as noted above, a small percentage of catch basins in commercial and industrial areas have been demonstrated in a research study to contribute a major portion of the trash load. Of the 258 catch basins analyzed in the 2006 report. 105 were in commercial and industrial areas, and all but one of the 34 catch basins responsible for generating 50% of the trash loadings were</p>		<p>The State Water Board is appreciative of the report and support for periodization of commercial and industrial areas for trash controls with priority land uses in the Trash Amendments. (Ocean Plan Amendment and Part I ISWEBE definition of "priority land uses.")</p>

Comment Letter	Comment	Recommended Language	Response
36.6	<p>located in commercial and industrial land use drainages.</p> <p>The draft amendments do allow an MS4 permittee with regulatory authority over priority land uses to request a Water Board allow the permittee to comply with Track 1 or Track 2 requirements with alternate land uses that generate loads of trash equivalent to or greater than one of the priority land uses. However, the draft amendments do not specifically allow targeting of high trash generation areas with priority land uses through the use of such tools as the "Keep America Beautiful Visible Litter Survey". The draft Trash Amendment should be revised to allow - even encourage - targeting of truly high trash generation areas within the broad priority land uses.</p>		Please see Responses to Comments 10.7 and 12.2.
36.7	<p>The City of Signal Hill agrees with the California Stormwater Quality Association (CASQA) that regulatory source controls should be developed and implemented. The staff report notes on page 7 that "California is the leader in implementing local ordinances with goals of reducing trash specifically plastics. However, what is needed is a statewide program to reduce trash to complement the "consistent statewide approach to controlling trash discharges into waters of the</p>		Please see Response to Comment 4.5.

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	<p>state' being developed by the State Water Board. The City agrees with the option of granting time extensions for adoption of regulatory source control ordinances by local governments. Such an incentive will encourage more local and perhaps regional, source control programs, but State action is also needed. Product and packaging stewardship should be encouraged and/or required by the State. SB 346, the brake pad bill, became law in 2010 and is on track to greatly reduce copper stormwater pollution by 2025. A similar effort is needed to reduce trash. Producers of products and packaging that ends up in the water could be required to design and implement recycling/collection programs and/or redesign products to be biodegradable in water. The State Water Board should work with other state agencies. The legislature, the California Product Stewardship Council, the Governor and product and packaging manufacturers to reduce trash at the source. In addition, the State Water Board should consider the market-related approaches to source control assessed in the 2006 report entitled "Market-Based Strategies For Reducing Trash Loadings to Los Angeles Area Watersheds, An Initial Assessment" discussed above.</p>		



Comment Letter	Comment	Recommended Language	Response
36.8	<p>Actually, the final compliance date for the Los Angeles River Trash TMDL is September 30, 2016. For September 30, 2014, the compliance point is 10% of the baseline load calculated as a rolling 3-year annual average. For July 30, 2015 the compliance point is 3.3% of the baseline load calculated as a rolling 3-year, average. The Regional Water Board clarified the final compliance date for the Los Angeles River Trash TMDL in Attachment 0 of Order No. R4-2012-0175. "Permittees shall comply with the final water quality based effluent limitation of zero trash discharged to the Los Angeles River no later than September 30, 2016 and every year thereafter. Several cities, especially those installing certified full capture devices, have already achieved 90% compliance. However, achieving full compliance will be very expensive due to the need to retrofit or replace catch basins in which the certified full capture devices could not be installed.</p>		<p>Comment noted. The proposed Final Staff Report has been modified to reflect the final compliance date for the Los Angeles River Watershed Trash TMDL of September 30, 2016 (see Final Staff Report pp 5 and 75).</p>
36.9	<p>The City of Signal Hill requests that the phrase, "except for the Los Angeles River Watershed and Ballona Creek Trash TMDLs, because these two TMDLs are approaching final compliance</p>		<p>The State Water Board considered this comment and modified the final compliance dates. (See Final Staff Report pp. 5 and 75.) However, the State Water Board does not recommend modifications final compliance point of the Los Angeles River Watershed and Ballona Creek Trash TMDLs.</p>

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	<p>deadlines of July 1, 2014 and 2014. respectively" be deleted and replaced with: "The final compliance point for the Los Angeles River and Ballona Creek Trash TMDLs will be delayed until six months after the Los Angeles Regional Water Board completes its reconsideration of the scope of its trash TMDLs. Further the Los Angeles Regional Water Board should be directed to consider each Permittee that is determined to have achieved 90% compliance with the current Los Angeles River and Ballona Creek Trash TMDLs to be in full compliance with the TMDLs. 90% compliance with a TMDL covering an entire jurisdiction is more than equivalent to compliance with the Trash Amendments. Those jurisdictions determined to be a minimum of 80% in compliance shall be allowed to achieve full compliance through focusing trash control efforts on high trash generation areas.</p>		
36.10	<p>The greatest assistance that the State Board could provide to local governments is in allowing the use of a certified trash surveys to focus the implementation of this new policy to catch basins that generate significant amounts of trash, irrespective of the land use category.</p>		<p>Comment noted. The proposed Trash Amendments allow for this flexibility to determine areas that generate comparative amounts of trash through the "alternative equivalent land use" provision within priority land uses.</p>

Comment Letter	Comment	Recommended Language	Response
37.1	<p>Given the site specific conditions within the City, and documented lack of trash in the drain inlets as documented by Lake Tahoe TMDL studies), Track 1 is not a viable option for the City since the MS4 is not the primary source of trash conveyed to local waterways and Lake Tahoe.</p>		<p>The State Water Board appreciates the feedback on Track 1. The Trash Amendments recognize Track 1 might not fit all municipalities, and thus has Track 2.</p>
37.2	<p>The City is concerned that the existing text in Track 2 requires extensive outfall monitoring and trash counting to determine load reductions, although site specific TMDL studies, data and volunteer collection efforts find that the primary source of trash is littering at Lake Tahoe beaches, not conveyance and delivery via the storm drain system. The City requests that Track 2 language include more flexible methods for monitoring and reporting, based on site specific information, not extrapolated methods from studies conducted in urban, heavily populated areas of the state.</p>		<p>Please see Response to Comment 4.6.</p>
37.3	<p>The City is concerned that the studies used to develop this statewide mandate focused on the sources of trash and methods for monitoring and reporting that were developed in large urban centers, which may not be applicable to many of the less developed, rural portions of the state.</p>		<p>Trash is a prevalent and controllable priority pollutant across California's surface waters, which is described in Sections 1 and 3, Appendix A, and Appendix C of the proposed Final Staff Report.</p> <p>While currently only 73 water bodies are 303(d) listed as impaired for trash, this number is increasing and TMDL implementation can be costly and intensive. A central element</p>

Comment Letter	Comment	Recommended Language	Response
37.4	<p>The City is concerned that the proposed Statewide Amendments are based primarily on studies conducted in highly urbanized population centers, and will force smaller, less urbanized communities to include costly and time consuming monitoring efforts based on studies and methodologies developed for major urban areas within California. The City requests the Track 2 language include changes to allow flexibility to avoid counting and reporting trash quantities at outfalls, and focus efforts on more effective clean ups that target the primary source of trash at Lake Tahoe: littering at the beach.</p>		<p>of the proposed Trash Amendments is a land-use based compliance approach to focus trash controls to the areas with high trash generation rates, in contrast to all land uses. Within this land-use based approach, a dual alternative "compliance track" approach is proposed for permitted storm water dischargers to implement a prohibition of discharge for trash. While the dual alternative compliance track approach might not cover the entire jurisdiction of the permittee, it will target and reduce trash from the areas of the high rates of trash generation and protect the beneficial uses of California's surface waters.</p> <p>Please see Responses to Comments 10.7 and 12.2.</p>
38.1	<p>The City and County recommend that the State Water Board partner with permittees to explore the creation of a non-competitive program to fund trash control measures. One such program that could serve as an example is the</p>		<p>Please see Response to Comment 4.7.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>Used Oil Payment Program (OPP). The State Water Board should work with the California Product Stewardship Council to assess the most prevalent forms of litter and pursue legislative remedies for litter including taxes on products (such as cigarette butts) to fund local trash control programs.</p>		
38.2	<p>The City and County recommend that the Proposed Trash Amendments recognize the value of current management programs and not divert resources away from ongoing, successful efforts to control trash in our waterways or place additional demand on already-limited resources. We urge the State Water Board to allow MS4 programs with existing POCs-focused water quality implementation plans to address trash in the prioritization context of those existing plans.</p>		<p>Please see Response to Comment 11.9.</p>
38.3	<p>The City and County recommend that the State Water Board assess how already-established CalRecycle funding could be enhanced and/or redirected to local agencies to meet the trash reduction control requirements of the Proposed Trash Amendments.</p>		<p>Pursuant to Public Resources Code section 14581(a)(4)(A) of the California Beverage Container Recycling and Litter Reduction Act, the Department of Resources Recycling and Recovery (CalRecycle) is distributing \$10,500,000 to eligible cities and counties specifically for beverage container recycling and litter cleanup activities through the Beverage Container Recycling Grant and Payment Program. This program has funded full capture systems and other litter abatement programs. For more information please see: <a href="http://www.calrecycle.ca.gov/BevContainer/Grants/CityCounty/default.htm">http://www.calrecycle.ca.gov/BevContainer/Grants/CityCounty/default.htm</a></p>
38.4.	<p>A statewide ballot initiative should be proposed to help fund trash control</p>		<p>Comment noted. A statewide ballot initiative is outside of the scope of these proposed Trash Amendments.</p>

Comment Letter	Comment	Recommended Language	Response
38.5	<p>in waterways with statewide impact.</p> <p>While the City and County continue to work to identify successful management strategies for preventing trash from reaching receiving waters, it is critical that the Proposed Trash Amendments limit the liability of MS4 Permit holders and support a process that allows the City and County to apply their resources towards controlling trash within their areas of responsibility. Language in Ill.L.3 (Ocean Plan) and IV.B.4 (Inland Surface Waters, Enclosed Bays, and Estuaries Plan) appears to provide direction/authority to the permitting authority to address other sources of trash. Examples should be added to include other NPDES permit holders and agricultural operations. The language could be strengthened by citing the authority with which this oversight is provided in the California Water Code (i.e., CWC §13263, 13267). The City and County recommend the State Water Board also include provisions to require implementation of the Proposed Trash Amendments, not only through inclusion in MS4 Permit, but through other NPDES Permits, WDRs, and Waiver Provisions.</p>		Please see Response to Comment 10.6.

Comment Letter	Comment	Recommended Language	Response
38.6	<p>The Proposed Trash Amendments state that for Permittees selecting Track 1, "one potential compliance schedule is 10% completion of controls per year" (p. C-30). This suggested compliance schedule is likely to be infeasible for many Permittees, given the time it will take to accurately identify high priority areas, request and evaluate bids for installation of control devices, establish contracts, and order and install the control devices.</p> <p>Recommendation: The City and County recommend that Permittees be allowed to determine feasible milestones that are commensurate with the efforts that will need to take place each year.</p>		Please see Response to Comment 6.8.
38.7	<p>The Proposed Trash Amendments require Permittees selecting Track 2 to develop and submit an implementation plan that identifies the combination of controls that will achieve the same performance 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. We strongly recommend that clear guidance for the implementation plans and standards of equivalency be established prior to or with the adoption of the Trash Amendments.</p>		Please see Response to Comment 16.3.

Comment Letter	Comment	Recommended Language	Response
	<p>Clearly establishing these expectations is essential to informing the decisions regarding the choice of track. At present, it is unknown 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, placing them in a situation where the guidelines would be subject to on-going interpretation.</p> <p>Recommendation: The City and County recommend that standards of equivalency be established prior to or with the adoption of the Proposed Trash Amendments.</p>		
38.8	<p>While stormwater permittees may want to conduct receiving water monitoring to demonstrate performance, the City and County feel it should not be mandated. Other sources contribute trash to receiving waters, and imposing this requirement on stormwater permittees will not provide an indication of the effectiveness of stormwater trash control programs.</p>		Please see Response to Comment 4.6.
38.9	<p>The City and County recommend that a more extensive list of certified devices be prepared prior to the adoption of the Proposed Trash Amendments. We also recommend refining the full capture device certification process to streamline</p>		Please see Response to Comment 10.5.



Comment Letter	Comment	Recommended Language	Response
	<p>the certification process as much as possible. Additionally, 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.</p>		
39.1	<p>Specifically, the City is very supportive and greatly values of the multi-track implementation approach to meeting the water quality objectives set forth in the Proposed Amendments. Track 2 provides much needed flexibility for local jurisdictions to prioritize implementation based on available resources and local knowledge of the presence and source of trash in our community.</p>		<p>The State Water Board appreciates the support for Track 2.</p>
39.2	<p>The City is concerned that the Implementation Provisions, including the Time Schedule, as currently delineated in the Trash Amendments will divert resources and possibly compromise years of research, planning, and the implementation efforts that have been invested into our Short and Long Term Trash Reduction Plans. We respectfully request that the State Board consider establishing a mechanism that allows MRP permittees to comply with Track 2 implementation via continued implementation of the</p>		<p>Please see Response to Comment 4.2.</p>

Comment Letter	Comment	Recommended Language	Response
39.3	<p>already developed Long Term Trash Reduction Plans, submitted to the San Francisco Bay Regional Water Quality Control Board as required by the MRP.</p> <p>We request that the State Board allow for the full trash capture devices previously "approved" by the San Francisco Bay Water Quality Control Board for installation under the Project to satisfy the requirements of the Trash Amendments consistent with process outlined for the full trash capture devices previously certified by the Los Angeles Regional Water Board as defined in the Trash Amendments.</p>		Please see Response to Comment 4.3.
39.4	<p>The City strongly supports the inclusion of these types of regulatory source controls as an institutional control available for implementation to comply with the Trash Amendments.</p>		Please see Response to Comment 4.5.
40.1	<p>We appreciate State Board's efforts to incorporate stakeholders' comments provided during the outreach meetings, particularly the inclusion of Track 2 type control measures in the draft Policy.</p>		The State Water Board appreciates the support and attendance of the City of Walnut Creek at the focused stakeholder meeting in San Jose.
40.2	<p>While the draft Policy is more clearly written, the regulatory provisions fail to acknowledge progress made by municipalities in the San Francisco Bay Area. Under the Municipal</p>		Please see Response to Comment 4.2.

Comment Letter	Comment	Recommended Language	Response
	<p>NPDES Regional Permit (MRP) for stormwater discharges, Bay Area municipalities have assessed the extent and magnitude of the trash issues and implemented enhanced control measures to reduce their impacts on our waterways and the San Francisco Bay.</p>		
40.3	<p>State Board should revise the proposed Policy to include "Track 3" for municipalities covered under the MRP to continue using any combination of full capture systems, other treatment controls, institutional controls and/or multi-benefit projects in a phased and prioritize approach that focuses on high trash generation areas as defined in the community-specific trash management plans.</p>		<p>Please see Response to Comment 4.2.</p>
40.4	<p>The proposed Policy should be revised to account for the benefit of true source control actions that we initiate or participate in addressing litter-prone items. Therefore, time extensions should be granted to municipalities for participating with other local agencies to advocate for legislation and industry cooperation in the development of product redesign, packaging redesign, take-back programs and deposit legislation.</p>		<p>Please see Response to Comment 4.5.</p>
40.5	<p>State Board should revise the definition of "high trash generating areas" to allow municipalities the option of identifying geographical</p>		<p>Please see Responses to Comments 10.7 and 12.2.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>areas within their jurisdictions that generate problematic levels of trash, regardless of land use. As an example, a regional transit hub and freeway on-ramps, both of which are outside the City's authority, generate a problematic level of trash in comparison to our robust downtown core areas.</p>		
40.6	<p>Because trash is transported to receiving waters from pathways other than MS4s (such as illegal dumping into receiving waters, homeless encampments and wind), trash from these pathways may compound municipalities' abilities to observe trash reductions in creeks and shorelines. For this reason, data collected in receiving waters should not be considered a primary indicator of compliance.</p>		<p>Please see Response to Comments 4.6 and 34.2.</p>
41.1	<p>While the Draft Trash Control Amendment Staff Report purports to provide flexibility, closer examination of the proposed requirements and additional narrative adds, if adopted, additional reporting of monitoring requirements for construction site dischargers, and most importantly, adds a significant burden of proof element to compliance that is unnecessary given CICWQ research into existing construction site trash control practices. In other words, it appears the State Water Board is proposing regulation that is</p>		<p>It is not the intention for the Trash Amendments to add a significant burden to construction site dischargers. The current Construction General Permit already has prohibition on trash (debris) which may prove adequate to implement the Trash Amendments. Additionally, please see Response to Comments 5.1 and 5.2.</p>

Comment Letter	Comment	Recommended Language	Response
41.2	<p>unnecessary and unhelpful given current regulation and industry practice.</p> <p>The problem of trash in receiving waters is localized and is being effectively addressed in that manner through the TMDL process and through implementation of other existing NPDES permits. We therefore question the need for any additional regulation at this time, in part because of the additional resources and time that will be required to comply with the Draft Trash Control Amendment when a problem with trash may never exist.</p>		<p>Trash is a problem statewide and greater action is necessary than the existing TMDLs and NPDES permits. Please see Response to Comment 44.4.</p>
41.3	<p>The determination of Track 1 and Track 2 equivalency is under development at this time according to the Draft Trash Control Amendment staff report and State Water Board staff (who provided clarification of intent at a workshop on 7/16/2014), and will be left to the discretion of the Regional Boards to develop at some future date. This kind of uncertainty in process is concerning, as is the fact the current prohibition of the discharge of trash appears to be working from the perspective of the construction industry, and additional regulation and so-called flexibility is unhelpful and may actually increase the cost to comply because of the difficulty of proving Track 2 equivalence with</p>		<p>Please see Response to Comment 16.3.</p>

Comment Letter	Comment	Recommended Language	Response
41.4	<p>Track 1.</p> <p>We have concerns about the monitoring and reporting program (described on page 17 of the Staff Report, Section 2.7), which strongly implies a level of effort required by builders and contractors, significantly above and beyond what is currently required to demonstrate compliance (handled in the SWPPP, implemented vis-à-vis daily physical collection and containment of trash using source control principles). And, the Draft Trash Control Amendment makes conflicting statements about the necessity of specific monitoring requirements for construction dischargers, and clarification of intent by the State Water Board is requested. Specifically, see conflicting information discussed on page 17, Section 2.7 and pages 81-82 of the Staff Report, 4.10 No. 3.</p>		<p>The Industrial General Permit (IGP) and Construction General Permit (CGP) are statewide permits that regulate discharges of storm water and authorized non-storm water discharges associated with very specific industrial activities. These permits apply to thousands of projects with diverse features and characteristics between facilities and sites. As such, prescribing appropriate and consistent trash monitoring and reporting requirements for all permittees poses significant challenges. While the Trash Amendments do not contain trash monitoring requirements for the IGP and CGP, permittees would, however, be required to report the measures used to either (1) achieve the outright prohibition of trash or (2) achieve equivalent trash control through alternative methods. (Ocean Plan Amendment III.L.2.c and Part I ISWEBE IV.A.3.c.)</p> <p>Currently, the CGP prohibits the discharge for any debris, which includes plastic and other trash materials. The Trash Amendments establish an outright prohibition of the discharge of trash. The existing provisions in the CGP would be similar to the outright prohibition for trash. State Water Board does not intend to create additional regulations or monitoring for trash for CGP permittees. Please see Responses to Comment 5.1 and 5.2.</p>

Comment Letter	Comment	Recommended Language	Response
41.5	<p>The State Water Board did not estimate the financial impact of the Draft Trash Control Amendment on construction dischargers, and concluded the Draft Trash Control Amendment would not have any impact on the incremental cost of compliance. This is a faulty assumption considering that if the Draft Trash Control Amendment was adopted and construction dischargers chose to comply using Track 2, there will most certainly be a cost for demonstrating equivalency with Track 1 and this cost would be borne by the individual discharger/permit holder as we currently understand how the Draft Trash Control Amendment Track 2 process would be implemented.</p>		Please see Response to Comment 5.2.
42.1	<p>The narrative water quality objective stated here should be replaced with the numeric water quality objective of zero trash to reflect the fact that receiving waters have no assimilative capacity for trash. There are no legal findings presented to support the selection of any other standard. The zero trash objective contained in the Los Angeles area Trash TMDLs has been tested and upheld by the Fourth Appellate District Court. Although there are technical challenges to limiting all trash entering jurisdictional waters,</p>		Please see Response to Comment 6.1.

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	properly designed and maintained full capture systems are established means of eliminating the discharge of trash from municipal separate storm sewer systems.		
42.2	<p>The level of control provided in these trash amendments is not sufficient to meet the narrative water quality objective proposed for the Ocean Plan since trash control is not required for non-priority land uses. These areas do generate trash, albeit generally at lower levels than priority land uses. These amendments essentially shield dischargers from having to control trash from these land uses by defining compliance with the water quality objective as treatment of priority land uses only. This is unacceptable. Preferably, the water quality objective for trash would be satisfied only for areas adequately treated by Track 1 and Track 2 controls. Other “non-priority” areas would not escape coverage but treatment there would be de-prioritized in favor of a focus on high priority areas.</p>		<p>See Final Staff Report, sections 1.5 and 2.</p> <p>A central element of the Trash Amendments is a land-use based compliance approach to focus trash controls to the areas with high trash generation rates. (Ocean Plan Amendment at III.L.2; Part I ISWEBE at IV.A.3.)</p> <p>However, the Trash Amendments do not, as the commenter suggests, limit control to priority land uses only. See Ocean Plan Amendment at III.L.1.a and Part I ISWEBE at IV.A.1.a, which describes the scope of the dischargers subject to the prohibition of discharge of trash.</p> <p>Additionally, the Trash Amendments allow the permitting authority to determine other locations or land uses within an MS4’s jurisdiction, on a case by case basis, that have significant trash generation rates (e.g. sufficient to cause or contribute to an exceedance of water quality objectives or creation of nuisance) and require additional trash controls. (Ocean Plan Amendment at III.L.2.d and III.L.3; Part I ISWEBE at IV.A.3.d and IV.A.4.) The Trash Provisions also allow the permitting authority to require other dischargers to implement trash controls.</p> <p>These approaches are sufficient trash controls to meet standards in a reasonable amount of time.</p>
42.3	Track 1 does not differentiate		Pursuant to the express terms of the Trash Amendments



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	<p>between public and private drains, instead referring to “all storm drains”. Please confirm that this includes storm drains on private property.</p>		<p>(Ocean Plan Amendment at III.L.2.a; Part I ISWEBE at IV.A.3.a), the requirement for MS4 permittees to comply with Track 1 or Track 2 extends to the extent they have “regulatory authority” over priority land uses in their jurisdiction. If the MS4 permittee has legal authority to install, operate, and maintain full capture systems for a storm drain, whether at the actual site of the drain or inline, then that permittee would be required to do so under the Trash Amendments. To comply with Track 1, full capture systems must be installed, operated, and maintained for “all storm drains that capture runoff from priority land uses. (Ocean Plan Amendment at III.L.2.a.1; Part I ISWEBE at IV.A.3.a.1.) Insofar as an MS4 permittee does not have authority over a private storm drain, the MS4 would comply with Track 1 by, for example, installing a vortex separator system inline, which would capture trash from a whole drainage area of individual storm drains (see Staff Report section 5.1.3), or installing trash nets (see Staff Report section 5.1.4) to capture trash from drainage areas of storm drains. (See generally, discussion in Staff Report in Section 5 through 5.1.5.) The State Water Board does not support the recommendation. Additionally, Please see Response to Comment 11.4.</p>
42.4	<p>Avoid backsliding in areas with existing trash regulation - Appendix D - Section III.I.6.a</p> <p>Section III.I.6.a seems to provide dischargers with existing trash control requirements that are more stringent than the proposed provisions with a less stringent compliance option. For example, the 15 Los Angeles area TMDLs set a trash reduction target of zero trash. Applicability in Los Angeles region is addressed in the “Applicability” section, but section III.I.6.a should</p>		<p>Backsliding generally refers to reductions in treatment levels required by NPDES permits. The Clean Water Act and U.S. EPA’s regulations limit the circumstances under which modified or reissued permits may set less stringent effluent limitations than required by previous permits. (CWA § 402(0)(3)(A)-(E); 40 CFR § 122.44(l); see also 40 CFR § 122.62 (applicable circumstances for permit modification or revocation).) The “anti-backsliding” provisions generally prohibit relaxation of effluent limitations previously established on the basis of best professional judgment, unless circumstances exist which make one of the exceptions to the general rule applicable. The commenter also misconstrues applicability of the prohibition contained in Section III.L.6.a, which states: “Dischargers with NPDES permits that contain specific requirements for the control of Trash that are consistent with these Trash Provisions</p>

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	<p>be modified to state: "Only programs with less stringent existing trash control requirements would be deemed in compliance with the prohibition of discharge if they are consistent with section III.L.2." Where more stringent standards already apply, for example as part of an NPDES permit incorporating local TMDLs, they must remain in place to avoid backsliding.</p>		<p>shall be determined to be in compliance with this prohibition if the dischargers are in full compliance with such requirements." Such applicability of the prohibition does not authorize a reduction in treatment levels required by NPDES permits. The Trash Amendments' prohibition of discharge does not apply to the waters for which the 15 Los Angeles TMDLs apply. The Trash Amendments do not effectuate a lowering of treatment levels by accepting more stringent TMDLs from their application.</p> <p>Additionally, the proposed Trash Amendments direct the Los Angeles Water Board to hold a public meeting to reconsider the scope of its trash TMDLs within one year of the Trash Amendments' effective date and focus its permittees' trash control efforts on high trash generation areas rather than all areas within each permittee's jurisdiction. The reconsideration would occur for all existing trash TMDLs except for the Los Angeles River Watershed and Ballona Creek Trash TMDLs, because those two TMDLs are approaching final compliance deadlines.</p>

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42.5	<p>Full capture system approval process must be improved - Appendix D – Section III.L.1.b.(1)</p> <p>To ensure reliable performance of full capture systems, the following improvements to the certification process are recommended: · Prohibit the use of on-line trash control devices that direct peak flows through the trash storage area unless they are cleaned out after each significant storm event (&lt;0.25” depth); or specify that full capture systems must retain trash in an off-line configuration where peak flows are diverted upstream of the trash storage area. · Require in-field demonstration that trash control systems can capture and retain trash at the design treatment flow rate. Alternatively laboratory demonstration of trash capture and retention may be demonstrated using an influent stream containing a representative mix of gross solids including sediment, organic debris and trash. · Document the maintenance procedures and frequency required to maintain adequate trash removal and retention at the design flow rate. Include this information in any full capture certification. · Require an initial inspection frequency of monthly or after each significant event greater than 0.25” in depth for</p>		<p>Comment noted. These recommendations may be considered during the certification process. See Staff Report at section 2.8, which includes a revised discussion for the certification process the State Water Board will utilize.</p>

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	<p>the first year with maintenance performed when screens are 25% clogged or when trash systems. Based on observations during this period inspection frequency may be extended, but should occur at twice the frequency that maintenance is required. Prior to acceptance by the State Board, an independent audit of the effectiveness of previously certified full-capture BMPs in Los Angeles is needed per the requirements above and with particular focus on the actual operation and maintenance burden imposed by each type of system. To receive credit for full capture system treatment, maintenance efforts must be adequate to ensure that devices continuously have capacity to remove and retain 5 mm particles from the one year storm.</p>		
42.6	<p>Los Angeles area trash TMDL requirements should not be undermined</p> <p>Appendix D – Section III.L.1.b.(2)</p> <p>Although not explicitly stated, this section seems to allow Los Angeles area permittees to reduce the scope of their trash control efforts to focus only on priority land uses. This is unacceptable since it contradicts the clear direction given in the Trash TMDLs that the goal of zero trash discharge be</p>		<p>See Responses to Comments 6.7 and 42.2.</p>

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42.7	<p>attained.</p> <p>This section (Section III.L.2.a) should be amended to require permitting authorities electing to pursue Track 2 to implement full capture systems where feasible, prior to consideration of other controls.</p>		<p>The proposed Trash Amendments define Track 2 so that any combination of the treatment controls, institutional controls, and multi-benefit projects may be used to achieve the same performance results as compliance under Track 1, namely full capture system equivalency. To provide flexibility to the permittee in trash control plan development, the proposed Trash Amendments do not specify the order of types of controls that should be installed. However, in order to achieve “full capture system equivalency,” the Trash Amendments provide that the State Water Board expects that MS4 permittees will elect to install full capture systems where such installation is not cost-prohibitive. This expectation and the phrase full capture system equivalency were incorporated into the proposed final Trash Amendments. (Ocean Plan Amendment and Part I ISWEBE at definition for “full capture system equivalency”). The term “feasible” would have to be further defined and the State Water Board is disinclined to introduce that term under Track 2 as a compliance requirement. Please see Responses to Comment 6.2 and 6.3.</p>
42.8	<p>This section requires permittees to select either Track 1 or 2. Although not expressly stated, it seems that this decision is intended to be made once based on mitigation approaches selected for the entire drainage network under the jurisdiction of the permittee. Considering the likelihood that there will be at least one location in each jurisdiction where full capture systems are infeasible, this interpretation will push virtually every jurisdiction into Track 2. A better approach would be to allow the jurisdiction to select Track 1 or Track</p>		<p>Comment noted. See Response to Comment 42.7.</p>

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	<p>2 on a catchment by catchment basis with a requirement that full capture systems be installed where feasible. Alternatively, a Track 1 could include an allowance of up to 5% of area treated by non-full capture systems.</p>		
42.9	<p>The reference in this section to Chapter III.I.6.a should be corrected to reference Chapter III.I.6.</p>		<p>The section references have been corrected in the proposed final Trash Amendments.</p>
42.10	<p>This section seems to offer industrial permittees a path to compliance with the narrative trash objective that is based on installation of full capture systems. This is surprising given the fact that preproduction plastics are typically smaller than 5 mm in diameter and will not be controlled by full capture systems. Since industrial sites are listed among the priority land uses that are covered in section III.L.2.a, full capture controls or equivalently effective controls would already be required. This section must be amended to require additional controls that are effective for preproduction plastics. For example, the CDS system is available with standard screen apertures of 1.2 mm, 2.4 mm, and 4.7 mm. The 2.4 mm screen has been used extensively in California and is the default standard in several other states. The hydraulic and pollutant removal capabilities of this system for trash as well as fine</p>		<p>The section referenced provides NPDES permittees subject to the Industrial Storm Water General Permit a path to comply with the prohibition. Additionally, NPDES permittees subject to the Industrial Storm Water General Permit must comply with the best management practices requirements for trash in that permit.</p> <p>Regardless of the Trash Amendments, all facilities with the potential to discharge preproduction plastics are subject to the best management practices permit requirements required pursuant to Water Code section 13367(a).</p> <p>By the express terms of the Trash Amendments, the prohibition applies to the discharge of preproduction plastic by manufacturers and transporters of those plastics. (Ocean Plan Amendment at III.I.6.e; Part I ISWEBE at IV.A.2.e.)</p> <p>For these reasons, the State Water Board does not support the recommendation.</p>

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	<p>sediment and oil and grease are well documented. To ensure that systems are installed that actually address preproduction plastics, the following change is recommended: .            Replace "full capture systems" with "preproduction plastic capture systems" in section III.L.2.c.(1) and specify that such systems must remove and retain particles 2.4 mm and larger during the peak flow rate generated by the 1-year storm. .            Replace references to "full capture systems" elsewhere in section III.L.2.c with "preproduction plastic capture systems".</p>		
42.11	<p>The 10 year final compliance time line is appropriate for those permittees that select the full-capture option considering the complexity of identifying, designing, permitting and constructing storm drain retrofit projects.</p>		<p>Comment noted.</p>
42.12	<p>The 10 year final compliance time line should be shortened to 7 years for those permittees that select Track 2. Since many of the non-full capture solutions can be implemented without new capital improvement projects the time line can be shorter. For example increasing street sweeping, enforcement and public education can be done quickly. A shorter time line also incentivizes selection of the</p>		<p>To allow for statewide consistency and provide sufficient time for permittees to successfully achieve the prohibition of discharge, the State Water Board will provide a ten year compliance deadline for both Track 1 and Track 2. (Ocean Plan Amendment III.L.5.a-b; Part 1 ISWEBE IV.A.6.a-b.) This deadline allows for implementation of trash controls to occur over at least two permit cycles. This also provides the ability to use the second permit cycle to build on the first permit and allow for adaptive management.</p> <p>Additionally, for MS4 permittees that are designated after the</p>

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42.13	<p>full capture track which provides more trash capture certainty. Controls selected under either track should be undertaken in the context of a broader compliance plan such that redundant controls are avoided and maximum leverage is gained toward satisfying other water quality goals.</p> <p>There is an inequity for catch basin scale controls for short duration rainfall intensities. The full capture definition should be amended as follows:</p> <ul style="list-style-type: none"> <li>· Catch basin scale controls must be sized using the peak one-year, five-minute rainfall intensity</li> <li>· For devices serving multiple the rainfall intensity corresponding to the actual time of concentration for the contributing catchment must be used.</li> </ul>		<p>effective date of the Trash Amendments, their time schedule of ten years begins on the effective date of the designation. In that context, the State Water Board does not consider it equitable for a MS4 permittee that is designated, for example, six years after the effective date of the Trash Amendments to have a shorter time schedule in comparison to MS4 permittees designated prior to the effective date of the Trash Amendments. Additionally please see Response to Comment 7.7 and Staff Report section 2.5.</p> <p>While there is a relationship between the scale of the catch basin, rainfall intensity, and trash mobilization, the definition of full capture systems will remain as proposed in the Trash Amendments with a focus on the peak flow rate resulting from a one-year, one-hour storm. No change is needed.</p>



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42.14	<p>Trash reduction success following Track 1 hinges on adequate maintenance of full capture systems. To ensure that systems are functioning as designed, they should initially be inspected after every significant storm event (&gt;0.25" depth) until experience justifies a less frequent schedule. Where 25% of the screen is occluded the screen should be cleaned. For those systems storing trash in an on-line configuration, trash should be removed when it reaches 25% storage capacity. For those systems storing trash in an off-line configuration, trash should be removed when it reaches 75% of storage capacity. The local Regional Board should perform periodic spot checks to ensure accuracy and adequacy of reported maintenance information.</p>		<p>Within reporting requirements for Track 1, the permittees shall demonstrate on an annual basis the proper installation, operation, and maintenance of full capture systems to the permitting authority. (Ocean Plan Amendment at III.L.2.a.1; Part I ISWEBE at IV.A.3.a.1.) The purpose of this requirement is to demonstrate progress towards compliance and establish accountability for proper operation of full capture systems. The permitting authority does have the discretion to perform period spot checks, especially if there are areas of concern. However, it is not appropriate to include in a statewide water quality control plan, the type of product specific inspection and maintenance language proposed by the commenter. Therefore, the State Water Board does not propose adding an inspection criterion as proposed by the commenter.</p>
42.15	<p>Full capture system – The last sentence of this section allows the Executive Director of the State Water Board to decline certification of some full capture systems certified by the Los Angeles Regional Water Board. This is encouraging since some of the certified devices are unable to capture and retain trash with the required effectiveness (100% removal for the 1 year storm) at feasible maintenance levels. More information regarding criteria for</p>		<p>The Executive Director does have the authority to certify or decline certification for full capture systems requested for certification with relevant supporting documentation. (See Trash Amendments, Definitions, App. 1, "Full capture system" and Staff Report, section 2.8. Adding revised language to the certification process and stating that the State Water Board would follow a similar process established by the Los Angeles Water Board and referencing: Yang, M. Procedures and requirements for certification of Best Management Practice for trash control as a full capture system. Letter to Jonathan Bishop. 3 August 2004. Available at: <a href="http://www.waterboards.ca.gov/rwqcb4/water_issues/programs/stormwater/municipal/full%20capture%20system.pdf">http://www.waterboards.ca.gov/rwqcb4/water_issues/programs/stormwater/municipal/full%20capture%20system.pdf</a>.)</p>

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	<p>accepting or rejecting full captures systems should be given to allow entrepreneurs and engineers information needed to create the next generation of trash controls. Simply reverting to the failed approach of considering only the screen aperture size and modeled flow rates gives system designers little incentive to consider operational feasibility, especially if maintenance enforcement is weak.</p>		<p>The focus of the certification process is to provide assurance to permittees that their valuable resources are used on full capture systems that will successfully capture trash from storm water. The information regarding criteria for certification contained in the Staff Report is sufficient.</p>
42.16	<p>The term "vortex separation system" has been used in Trash TMDLs and related documents as a generic term for the CDS system which is a proprietary system marketed by Contech Engineered Solutions, LLC. The CDS system has been used in California for over 15 years and at thousands of locations nationally. There are approximately ten other vortex separation systems available in the market, none of which were part of the trash TMDL development process and none of which have been certified as full capture systems by the Los Angeles Regional Water Board. These systems are typically used in California as pretreatment upstream of infiltration, detention and filtration systems. Continuing to use the term "vortex separation system" is misleading in that it seems to include those systems without screens that do not meet the full</p>		<p>The State Water Board appreciates the explanation of this distinction between vortex separation system and CDS systems. However, no change is necessary to Staff Report 5.1.3.</p>

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	<p>capture system standard. Where it is being used in a historic context, the actual product name should be used in lieu of “vortex separation system”, for example in references to the Calabasas CDS system used to develop baseline trash loads. Also where “vortex separation systems” are called out as an approved full capture system by the Los Angeles Regional Water Board, the trade name CDS should be used.</p>		
42.17	<p>Although trash control is the focus of these amendments, it is noteworthy that some full capture systems provide significant ancillary benefits. For example, the CDS system is unique among trash controls in that it has spill storage and sediment removal capabilities that are well documented in field studies and should be noted in Section 5.1.3. In addition, these important ancillary benefits should be considered in any cost/benefit analysis and may play a significant role in meeting other pollution control objectives either by removing particulate bound pollutants of concern directly or by significantly extending the useful life of downstream filters, infiltration systems, biotreatment systems and other BMPs.</p>		<p>The State Water Board agrees that trash controls like full capture systems, low impact development, and multi-benefit projects can provide benefits to multiple storm water pollutants while extending the useful life of downstream filters, infiltration systems, bio-treatment systems, and other pest management practices. However, consideration of ancillary benefits is beyond the scope of this project and will not be added to the Staff Report.</p>
42.18	<p>The 10 year final compliance time</p>		<p>Comment noted. The State Water Board will maintain the ten</p>

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	<p>line is appropriate for those permittees that select the full-capture option considering the complexity of identifying, designing, permitting and constructing storm drain retrofit projects.</p>		<p>year time schedule for Track 1</p>
43.1	<p>The fiscal analysis within the Draft Amendment Report estimates that the installation and maintenance costs of this new program could range between \$8-\$10 per person per year. The County has approximately 180,000 residents, so using that logic - this program could cost the County \$1.8 million per year. That is completely unsustainable amount of money for the County to spend and would no doubt trump all other water quality priorities that the County has. The ability to develop a property fee to fund this new program is limited by Proposition 218 which requires a two-thirds voter approval. Today's voter climate has demonstrated repeatedly that increased fees are not supported for any program of this nature. Grant funding to satisfy regulatory requirements is also difficult to obtain. The scale of the Draft Amendments should be tailored and scaled to different community types so that a more appropriate level of effort is required that is more financially feasible to achieve.</p>		<p>The success of Proposition 218 is outside of the scope of the proposed Trash Amendments. Additionally, please see Responses to Comments 4.7 and 10.4.</p>

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43.2	<p>Due to the rural nature of the County, Track 2 appears to be a more appropriate Track for the County to follow. However, many of the requirements for Track 2 require data collection, management, analysis and reporting which will do nothing to directly improve water quality conditions. The staffing required to implement these requirements appears to be substantial based on the current version of the Draft Amendments. Proposed monitoring requirements will generate data that may be difficult to interpret, with the results potentially not being applied in any meaningful way to improve water quality.</p>		Please see Response to Comment 4.6.
43.3	<p>Screening drain inlets (DI's) to a 5 millimeter standard will increase that potential which will create significant flooding, nuisance and overflow erosion hazards throughout the County. Maintenance of accessible screened DI's throughout the County would compromise resources and funding dedicated to various obligated urgencies and necessities of the County.</p>		Please see Response to Comment 20.5.

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43.4	<p>Many the central and easternmost portions of the County range in elevations between 2,000 to over 6,000 feet above mean sea level and are subject to snow and ice conditions between the months of December through April. DI's located within these elevations are subject to snow and freezing temperatures and based on experience will most likely be inaccessible for maintenance throughout the winter season. If DI's are screened to a 5 millimeter standard and become obstructed with vegetative litter and debris due to maintenance inaccessibility, runoff throughout the winter months and during the ice and snowmelt periods will produce significant safety hazards, damage to infrastructure and consequential erosion.</p>		<p>The State Water Board appreciates the conditions of high elevation municipalities. Trash is a priority pollutant in California. The Trash Amendments provide flexibility to NPDES permittees with the dual alternative "compliance track" approach, so that permittees can determine the most effective means of controlling trash in their respective jurisdictions while taking into consideration particular site conditions (e.g., elevation), types of trash, and the available resources for maintenance and operation.</p>
43.5	<p>Thus, the number one priority and the majority of the County's financial resources there are dedicated to capturing and removing fine sediment particles prior to their discharge to Lake Tahoe. This is a significant and costly exercise that is of great importance to the preservation of that important natural resource water. If the Draft Amendments are adopted as drafted, resources will need to be diverted from the TMDL to address controlling trash and Lake Tahoe's</p>		<p>The presence of trash in surface waters, including Lake Tahoe, is a serious issue in California. The State Water Board does not see a conflict between the ongoing efforts to achieve compliance with the sediment TMDL and framework proposed in the Trash Amendments. As proposed, Track 2 encourages the use of multi-benefit projects. Projects to capture and remove fine sediment particles could also function to capture and remove trash. The State Water Board believes that trash is a controllable pollutant in Lake Tahoe and across California. Controlling trash would protect the beneficial uses of California's surface waters.</p>

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	famed clarity could be jeopardized.		
43.6	The Draft Amendments may be in conflict with the Delta Regional Monitoring Plan (RMP) and the currently in production Municipal Region-wide (Region 5) Storm Water Permit due to the requirement to elevate trash as a priority.		The State Water Board does not see a conflict with the proposed Trash Amendments and the Delta Regional Monitoring Plan and Municipal Region-Wide Storm Water Permit. Trash is a prevalent pollutant impairing the beneficial uses of California's surface waters including the Delta, rivers, and lakes in Central Valley Region. Please see Response to Comment 11.9.
43.7	The Draft Amendments would require participants to redirect efforts and funds to trash, which could eliminate funding for addressing one or all other identified priority pollutants and areas of concern. The ability for the County to prioritize our resources on critical water issues and maximize staff resources will result in achieving the greatest outcome for the environment within and downstream of the County.		The State Water Board is supportive of the prioritization of resources for reduction and control of storm water pollutants; however, trash is a priority pollutant across California. With the Trash Amendments, it is intended that Trash be a high priority along with other regional priority pollutants. Please see Response to Comment 4.7.

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43.8	<p>The County feels that source control is the best way to deal with trash in our waterways. A focus on source control of plastic trash, especially compared to full capture provisions of the Draft Amendments, is consistent with State legislative and agency goals for reducing solid waste and associated generation of greenhouse gases (GHGs). There should be additional focus on source control added to the Draft Amendments.</p>		Please see Response to Comment 4.5.
43.9	<p>How will the Draft Amendments provide relief for the County when managing trash resulting from the County's homeless demographic? Known encampments are located on non-County owned property and are typically near surface waters. In 2011, the County conducted a survey and 90 persons were identified as meeting HUD's definition of homelessness and 130 were identified as meeting the expanded definition of homelessness.</p>		Please see Response to Comments 6.5 and 34.2.
43.10	<p>How will the Draft Amendments provide relief for the County from windblown, vehicle blown, animals, accidents, and/or illegal direct dumping into or near surface waters which all can significantly contribute to trash accumulating in receiving waters? Full capture systems and institutional/source controls will be</p>		Please see Response to Comments 6.5 and 34.2.



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	ineffective for preventing these types of discharges.		
43.11	Due to the Draft Amendments enforcing the issue of trash, how possible would it be to require solid waste providers to share the responsibility for installation, operation, maintenance and enforcement of full capture systems and fee collection?		Permittees should continue to strengthen partnerships between their municipality's waste management agencies and recycling centers to address trash control.
43.12	The County is in favor of "shall not accumulate" language and is not in favor of a "zero trash limit". The County feels a zero trash limit establishes unrealistic goals.		The State Water Board agrees with this comment. In addition, please see Response to Comment 6.1.
43.13	The County is in favor of the Track 2 option remaining in place, with modifications. The County does not feel full capture systems are the only approach for effectively managing trash.		Comment noted. The dual alternative "compliance track" approach is proposed to provide flexibility for permittees to determine the most effective means of controlling trash while taking into consideration particular site conditions, types of trash, and the available resources for maintenance and operation.

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43.14	<p>The County would like to see more guidance on the Track 2 monitoring methodology. The County feels there is a need for a standardized methodology for proving effectiveness. Additionally, the County would like to see language in the Draft Amendments to address how the Track 2 Implementation Plans will be evaluated. In what units will trash be measured? The County is unable to accurately estimate what the actual cost of implementation and program maintenance will be based on the current Draft Amendments.</p>		Please see Response to Comment 4.6.
43.15	<p>The County would like the flexibility to apply to both Tracks 1 and 2, with amendments, due to different land use areas located throughout the County's MS4 boundaries. This would allow the County the ability to reduce monitoring requirements if we find Track 1 to be the best approach in one or more areas of the municipalities.</p>		Please see Response to Comment 4.6.
43.16	<p>The County is in favor of the time extension language provided for regulatory source controls requiring extensive jurisdictional ordinance adoption time.</p>		Please see Response to Comment 4.5.

Comment Letter	Comment	Recommended Language	Response
44.1	<p>The County shares the State Board's concern for ensuring the State's waterways are free from litter and debris. The proposed Trash Amendments will apply to all surface waters of the State. The Draft Staff Report, however, identifies 73 water bodies that are listed for trash, which represents only 2 percent of the total water bodies in California. Only four regions have trash listings, two of which have TMDLs for trash (Los Angeles and Colorado). In addition, most of the factual justification described in Appendix A justifying the proposed Trash Amendments comes largely from the coastal areas of Los Angeles and San Francisco. Furthermore, there has not been a demonstration that trash is likely to cause a discharge of waste to most waters of the State. Therefore, there is a lack of substantial evidence justifying application of the proposed Trash Amendments to every storm drain statewide, particularly with respect to inland areas.</p>		<p>Trash is a prevalent and controllable priority pollutant across California's surface waters, as described in Section 1 and 3, Appendix A, and Appendix C of the proposed Final Staff Report. While only 73 water bodies are currently 303(d) listed as impaired for trash, this number is increasing and TMDL implementation can be costly and intensive. A central element of the Trash Amendments is a land-use based compliance approach to focus trash controls to the areas with high trash generation rates -- not in all land uses (i.e., not in "every storm drain statewide"). Within this land-use based approach, a dual alternative "compliance track" approach is proposed for permitted storm water dischargers to implement a prohibition of discharge for trash. The dual alternative "compliance track" approach targets and reduces trash from the areas of high rates of trash generation and protect the beneficial uses of California's surface waters. Additionally please see Responses to Comments 10.10 and 18.4.</p>

Comment Letter	Comment	Recommended Language	Response
44.2	<p>The primary means to regulate trash has been through the federal 303(d) listing and TMDL processes. In the two regions subject to trash TMDLs, TMDLs have either been established by the Regional Board or EPA. The proposed regulatory basis for imposing the proposed Trash Amendments, however, is Water Code section 13170, whereby the State Board may adopt water quality control plans where they are applicable. Without substantial evidence to justify statewide trash controls, the State Board would be regulating waterways where the proposed Trash Amendments should not be applicable.</p>		<p>The State Water Board is responsible for reviewing statewide water quality standards and for modifying and adopting standards in accordance with section 303 (c)(1) of the federal Clean Water Act (33 U.S.C. § 1313(d)) and § 13170.2(b) of the California Water Code. Trash is a pervasive problem in California. Controlling trash is a priority, because trash adversely affects our use of California's waterways. Trash impacts aquatic life in streams, rivers, and the ocean as well as terrestrial species in adjacent riparian and shore areas. Trash, particularly plastics, persists for years. It concentrates organic toxins, entangles and ensnares wildlife, and disrupts feeding when animals mistake plastic for food and ingest it. Additionally, trash creates aesthetic nuisance and reduces the economic value of California's recreation areas including beaches. Additionally, please see Response to Comment 44.1.</p>

Comment Letter	Comment	Recommended Language	Response
44.3	<p>Furthermore, the State Board would essentially usurp the Constitutional land use authority of local governments as well as the expertise of the Regional Water Boards, which are in a better position to identify priority pollutants and regulate accordingly. State Board staff appears to utilize the compliance approach used in the LA Trash TMDL that was upheld in City of Arcadia v. State Water Resources Control Board but sidesteps the listing and TMDL process entirely.</p>		<p>The Clean Water Act and Porter-Cologne direct the Water Boards to regulate the discharge of pollutants into waters of the United States and waters of the State, respectively. Trash is considered a pollutant and where runoff and storm water transports trash into these waters, it is considered discharge of waste subject to Water Board authority. Trash is a prevalent and controllable priority pollutant across California's surface waters.</p> <p>The Trash Amendments propose to address the impacts of trash to the surface waters in California (with the exception of those waters within the jurisdiction of the Los Angeles Water Board with trash or debris TMDLs that are in effect prior to the effective date of the Trash Amendments) through development of a statewide plan to control trash. The project objective for the proposed Trash Amendments is to provide statewide consistency for the Water Boards' regulatory approach to protect aquatic life and public health beneficial uses, reduce environmental issues associated with trash in state waters, and focus limited resources on high trash generating areas.</p> <p>A central element of the proposed Trash Amendments is a land-use based compliance approach to focus trash controls to the areas with high trash generation rates. Within this land-use based approach, a dual alternative compliance Track approach is proposed for permitted storm water dischargers (i.e., MS4 Phase I, MS4 Phase II, Caltrans, IGP, and CGP) to implement a prohibition of discharge for trash. The implementation provisions would be incorporated to NPDES permits by the permitting authority, either the State Water Board or one of the nine regional water boards. Additionally, the implementation provisions are modeled after existing programs and lessons learned across the state, such as trash and debris TMDLs and the San Francisco Bay MRP.</p>

Comment Letter	Comment	Recommended Language	Response
44.4	<p>Lastly, while MS4s may transport trash into statewide waterways, the studies cited in Appendix A note that trash is largely a non-point source issue due to storm and wind events. To the extent that the State Board exercises proper authority to require the installation of catch basins to prevent non-point sources of trash, the State Board would act under authority of State Law, not federal law.</p>		<p>Trash is a priority pollutant across California. The absence of an identified impairment does not mean that a water body is not impaired for a certain constituent. Specifically, many water bodies have no data on which to base any impairment decision. Thus the lack of a determination of impairment may not be used as evidence of good water quality.</p> <p>The presence of trash in surface waters, especially coastal and marine waters, is a serious issue in California. Trash discarded on land is frequently transported through storm drains to waterways, shorelines, the seafloor, and the ocean. Statewide and local studies have documented the presence of trash in state waters and the accumulation of land-based trash in the ocean. Street and storm drain trash studies conducted in regions across California have provided insight into the composition and quantity of trash that flows from urban streets into the storm drain system and out to adjacent waters. There are multiple transport mechanisms of trash to state waters from point and non-point sources including storm water transport, direct dumping, and wind-blown. To control trash in surface water from both point and non-point sources, the Trash Amendments propose to implement the water quality objective for trash through a conditional prohibition of discharge of trash directly into waters of the state or where trash may ultimately be deposited into waters of the state. The prohibition of discharge applies to both permitted and non-permitted dischargers. Dischargers would comply with the prohibition as outlined with the plan of implementation when such implementation plan is incorporated into the dischargers' NPDES permits, WDRs, and Waivers of WDRs.</p>

Comment Letter	Comment	Recommended Language	Response
44.5	<p>The County recommends the approach suggested by San Diego County that the State Board should establish the narrative water quality objective for trash and establish implementation procedures for the water quality objective that are triggered when the water quality objective has been exceeded and the NPDES permit holder has been demonstrated to be a source of trash causing the exceedance. This approach is consistent with the approach taken to regulate all other pollutants in the State, and allows an MS4 to prioritize trash control where its water body is specifically listed for trash.</p>		Please see Response to Comment 6.1.
44.6	<p>The costs for implementation of the proposed Trash Amendments are much higher than estimated by State Board staff. For example, if the City of Irvine were to implement Track 1, full capture devices would be required at 4,600 catch basins (out of 6,423 total). Utilizing the estimated cost from Appendix C: Economic Considerations for the Proposed Amendments to Statewide Water Quality Control Plans to Control Trash of \$1,142 per catch basin insert for installation and one year of operations and maintenance, the estimated total cost to implement Track 1 is \$5,253,200. This cost estimate results in a cost per capita</p>		Please see Response to Comment 26.9.

Comment Letter	Comment	Recommended Language	Response
	<p>of \$21.65, more than double the \$10.50 estimated cost per capita included in the proposed Trash Amendments in Table 13. Operations and maintenance costs would then continue for the life of the device.</p>		
44.7	<p>Furthermore, Permittees subject to the Los Angeles River TMDL have expressed substantial difficulty in reaching full compliance for the final 5% of the catch basins in their city without expending substantial amounts, ranging from \$10,000 to \$100,000 per catch basin, to completely retrofit the remaining catch basins. Moreover, if the State Board properly exercises its authority over MS4s, it is exercising State authority. The County therefore supports the California Stormwater Quality Association (CASQA) recommendation that the State Board assist with the development of funding sources for Permittees to comply with the proposed Trash Amendments.</p>		See Response to Comment 4.7 and Comment Letter 10.
44.8	<p>MS4 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. The proposed Trash Amendments, however, are silent on whether meeting the discharge prohibition requirements also means full compliance with</p>		Please see Response to Comments 4.1 and 10.9.



Comment Letter	Comment	Recommended Language	Response
	<p>receiving water limitations. This creates an ambiguity where a permittee could still be subject to a trash TMDL or could potentially be deemed as not complying with the receiving water limitations section of its permit. The proposed Trash Amendments should be clarified to define compliance accordingly.</p>		
44.9	<p>As was previously stated in the County's May 10, 2013 letter, the definition of "full capture systems" should be refined to specify that the point of compliance is the street level (drain inlet) for catch basin-based BMPs. Additionally, full capture system specifications should be consistent with existing MS4 Permit numeric sizing criteria for structural treatment BMPs. The proposed Los Angeles River Watershed Trash TMDL language provides one example calculation for establishing a flow-based system; however, other MS4 permit numeric sizing criteria should be included as an option. For example, existing MS4 Permit language for Orange County requires that BMPs be sized to treat either: 1) the maximum flow rate of runoff produced from a rainfall intensity of 0.2 inch of rainfall per hour, for each hour of a storm event; 2) the maximum flow rate of runoff produced by the 85th percentile hourly rainfall intensity, as determined from the local historical</p>		Please see Response to Comment 26.6.

Comment Letter	Comment	Recommended Language	Response
	<p>rainfall record, multiplied by a factor of two; or 3) the maximum flow rate of runoff, as determined from the local historical rainfall record, which achieves approximately the same reduction in pollutant loads and flows as achieved by mitigation of the 85th percentile hourly rainfall intensity multiplied by a factor of two.</p>		
44.10	<p>The definition of "trash" should be amended to include a size limit of 5mm, consistent with the definition of "full capture systems" that are the basis for compliance for Track 1. State Board staff's rationale for omitting the size limit from the definition is to ensure the prohibition pertains to pre-production plastics and "other materials." There are two problems with this justification: (1) The State Board assumes that pre-production plastics will be adequately and thoroughly addressed by industrial activities via the Industrial General Permit; and, (2) The State Board has not defined "other materials," thereby creating an additional source of trash of unknown composition or origin that must be controlled without an explanation as to which entity would be responsible. Without the inclusion of a size limit in the definition of "trash," MS4 operators could end up liable for pre-production plastics and "other materials" less than 5mm in size that</p>		Please see Response to Comment 20.11.

Comment Letter	Comment	Recommended Language	Response
44.11	<p>are found within its storm drain system, even if in full compliance with either Track 1 or Track 2.</p> <p>Several municipalities within the County have participated in grant-funded Measure M projects through the Orange County Transportation Authority (OCTA) to install catch basin BMPs. Per Measure M rules, these BMPs must remain in place for at least ten years or the participating municipalities would be required to repay the funding they received. These catch basin BMPs were not designed to meet the definition of a full capture system as outlined by the proposed Trash Amendments; therefore, the municipalities face either non-compliance with the Trash Amendment provisions or the loss of a significant amount of funds due to repayment of their Measure M grant(s). The County requests that either the affected catch basins be exempted from the requirements of the proposed Trash Amendments, or these municipalities be granted an extension to comply with the proposed Trash Amendments at these catch basin locations.</p>		<p>The State Water Board appreciates the work of the County of Orange and the Orange County Flood Control District on the Measure M projects. Existing projects can aid in the achieving compliance in the ten-year time schedule with a head start on projects. However, proposed final Trash Amendments do not have a time extension option. Please see Response to Comment 4.5.</p>
44.12	<p>As currently drafted, the proposed Trash Amendments equate high trash generating areas to priority land use areas, which are defined as</p>		<p>Please see Responses to Comments 10.7 and 12.2.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>areas developed as high density residential, industrial, commercial, mixed urban, and public transportation stations. State Board staff estimate that this definition of priority land use areas will equate to 2.35% of the Santa Ana Regional Board land area and 1.68% of the San Diego Regional Board land area; however, this is a gross underestimation of the land area that would actually be categorized "priority land uses" in Orange County, per the current definition. For example, the City of Irvine has conducted a GIS analysis of the land use areas in their city and found that 71% of the City's developed area would be considered priority land use areas under the proposed Trash Amendments. This figure is expected to be equal or greater for the majority of the other cities within Orange County, as Irvine ranks 28<sup>th</sup> in the County for population density, and many of the areas that would be considered priority land use areas are not high trash generating locations. The County recommends that each municipality be allowed to identify the high trash generating locations in their municipal area (a) or, if the priority land use designation is retained, that the definition for high density residential is revised to be consistent with state and local standards (b).</p>		

Comment Letter	Comment	Recommended Language	Response
44.13	<p>Given that the extent of the proposed Trash Amendments will be much greater than the State Board staff anticipated, the County requests that each municipality be allowed to determine which areas constitute high priority trash generating locations within its jurisdiction. The definition of priority land use areas included in the proposed Trash Amendments is based on a review of trash generation in Los Angeles County, and is not necessarily reflective of conditions in Orange County. Furthermore, MS4 Permittees in Orange County have collected data on catch basin maintenance for over ten years and could easily refer to this data to identify the greatest trash generating areas within their municipal area. This beneficial revision can be accomplished through amending the language on page E-9 regarding authorization of "equivalent alternative land use[s]" to include the following: "An MS4 may request its permitting authority to approve an exemption from treatment controls if that MS4 has areas within its jurisdiction that generate trash at rates that are significantly lower than estimated for the priority land use listed."</p>		Please see Responses to Comments 10.7 and 12.2.
44.14	<p>Although State Board staff cite the Governor's Office of Planning and</p>		The definition for high density residential is not uniform across the state. Based on the feedback from the Focused

Comment Letter	Comment	Recommended Language	Response
	<p>Research 2003 General Plan Guidelines as an "example of the dwelling unit standards used in local general plans" at 15-30 units per acre, high density residential is defined in the proposed Trash Amendments as "all land uses with at least ten (10) developed dwelling units/acre." The most prevalent standard for high density residential in Orange County is nearly double that of the proposed Trash Amendments, at 18 units per acre. The County recommends that the definition for high density residential be amended in one of the following three ways: (1) allow each municipality to use the definition of high density residential included in their General Plan; (2) revise the definition of high density residential in the proposed Trash Amendments so that it is consistent with the Governor's Office of Planning and Research 2003 General Plan Guidelines at 15 units per acre; or (3) replace high density residential with multi-family residential in the definition of priority land use areas.</p>		<p>Stakeholder Meetings, 10 developed dwelling units per acre was agreed to be appropriate. The permitting authority may additionally allow for flexibility to the permittee General Plan definition as long as there is not a substantial decrease in the area that requires trash controls through the "equivalent alternate land use" provision. (See Ocean Plan Amendment and Part I ISWEBE definition for "priority land uses" and "equivalent alternate land uses.")</p>
44.15	<p>Orange County Permittees in Region 9- San Diego will be required in 2015 to identify the highest priority water quality conditions within each watershed and develop strategies to address those priority areas and pollutants. The County has already determined bacteria, nutrients, and</p>		<p>Please see Response to Comment 11.9.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>toxicity to be the top pollutants of concern in both Region 8 and Region 9. Requiring trash capture within catch basins under Track 1 will create a system-wide repository of organic debris within the drainage that will likely function as a source of bacteria and nutrients in both dry and wet weather. The proposed Trash Amendments, as currently drafted, would effectively have trash supersede these top pollutants of concern and, indeed, likely confound efforts to address the highest priority water quality conditions as required by MS4 permits. The County strongly recommends that a mechanism be included in the proposed Trash Amendments to allow for watershed planning efforts to continue unimpeded, with trash being among the pollutants that are considered and prioritized as part of these efforts, but not necessarily the top priority if data does not support it as such. Allowing Permittees to identify which areas in their municipal area are truly high trash generating locations, as recommended in comment 8a, would be one way in which the proposed Trash Amendments could be supportive of watershed planning efforts.</p>		

Comment Letter	Comment	Recommended Language	Response
44.16	<p>It is unclear how the equivalency of Track 2 to Track 1 would be demonstrated, given that the level of trash removed through Track 1 would not be known if implementing Track 2. If the monitoring that is required for Track 2 is essentially infeasible, then there is only really a Track 1, which is problematic for Orange County (see prior comments). The County strongly recommends that this requirement be removed and that the proposed Trash Amendments be reframed to make Track 2 a truly equivalent option, particularly for municipalities required by permit to develop strategies to address priority areas and pollutants at a watershed scale.</p>		Please see Response to Comment 16.3.
44.17	<p>The County is supportive of the option to extend the compliance time by up to three years for implementing regulatory source controls and requests that the time extensions also be granted to those municipalities that have proactively implemented regulatory source controls such as the Cities of Huntington Beach and Laguna Beach, which have implemented bans on single-use plastic bags, and the City of Dana Point, which has implemented bans on both single-use plastic bags and Styrofoam.</p>		Please see Response to Comment 4.5.



Comment Letter	Comment	Recommended Language	Response
44.18	<p>As presented, the proposed Trash Amendments would only allow for devices certified by the Los Angeles Water Board to be considered as full capture devices at the time of adoption. Thousands of devices currently installed and removing trash in the State would not be certified. The proposed Trash Amendments should provide a process for non-approved devices to be considered certified as full capture if also certified by the San Francisco Water Board and a significant transition period for non-conforming devices to be replaced beyond the 15 year compliance deadline.</p>		Please see Response to Comment 4.3.
44.19	<p>We also support the recommendation of CASQA that the State Board create a list of certified devices prior to the adoption of the proposed Trash Amendments and establish a streamlined process to approve future devices.</p>		Please see Response to Comment 10.5.
45.1	<p>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</p>		<p>Comment noted. Trash is a prevalent and priority pollutant across California. The Trash Amendments propose to provide both statewide consistency and flexibility to protect the beneficial uses of surface waters from trash impairments.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>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.</p>		
45.2	<p>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:</p> <ol style="list-style-type: none"> <li>1. Establish the proposed narrative water quality objective.</li> <li>2. Establish implementation procedures for the water quality objective that are triggered when the water quality objective is exceeded or the water body is found to be impaired by trash.</li> <li>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.</li> </ol>		Please see Responses to Comments 10.7 and 44.1.

Comment Letter	Comment	Recommended Language	Response
45.3	<p>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 co permittees 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.</p>		Please see Responses to Comments 10.4 and 29.4.
45.4	<p>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.</p>		Please see Response to Comments 4.1 and 10.9.

Comment Letter	Comment	Recommended Language	Response
45.5	<p>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: <u>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.</u></p>		Please see Response to Comment 11.9.
45.6	<p>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.</p>	<p>(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 &gt;25% of the land area in the catchment in their jurisdictions; or</p>	Please see Response to Comment 11.4.

Comment Letter	Comment	Recommended Language	Response
		<p>(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 &gt;25% of the land area within the catchment within such jurisdiction(s).</p>	

Comment Letter	Comment	Recommended Language	Response
45.7	<p>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:</p>	<p><u>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.</u></p>	<p>Please see Responses to Comments 10.1 and 10.7.</p>
45.8	<p>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.</p>		<p>Please see Response to Comment 4.4.</p>

Comment Letter	Comment	Recommended Language	Response
45.9	Modify the Chapter reference in Part (6) of the Priority Land Uses definition as such: ... comply under Chapter III.J.L.2.a.1 and <u>Chapter III.L.2.a.2.</u>		Comment noted. This has been revised. See Ocean Plan Amendment and Part 1 ISEWBE Plan definition for "equivalent alternate land uses" within "priority land uses".
45.10	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.		Please see Response to Comment 10.8.
45.11	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 ISEWBE 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.		Please see Response to Comment 4.6.
45.12	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.		Please see Response to Comment 16.3.

Comment Letter	Comment	Recommended Language	Response
45.13	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.		Please see Responses to Comments 10.1 and 10.7.
45.14	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.		Please see Response to Comment 10.10.
45.15	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.		See Response to Comment 11.13.
45.16	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).	Trash is a priority pollutant across California impairing the beneficial uses of surface waters. This is not limited by community type, e.g., rural or urban. The State Water Board agrees that rural communities might contribute less trash than urban communities due to population size; however, the State Water Board does not consider the recommended language to be necessary. The implementation provisions of the proposed Trash Amendments are aimed to focus trash controls on five priority land uses. A rural community covered by a MS4 permit would comply with the prohibition of discharge via Track 1 or Track 2 to the extent that there are priority land uses in its jurisdiction.



Comment Letter	Comment	Recommended Language	Response
45.17	<p>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:</p>	<p><u>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.</u></p>	<p>Please see Responses to Comments 10.1 and 10.7.</p>

Comment Letter	Comment	Recommended Language	Response
45.18	<p>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:</p>	<p>Dischargers that are subject to NPDES permits for discharges of storm water associated with industrial activity (including construction activity) that relate to the <u>manufacture of preproduction plastics, transporters of preproduction plastics, And manufacturers that use preproduction plastics in the manufacture of other products shall be required.</u></p>	<p>Please see Response to Comment 12.3.</p>
46.1	<p>The county is in full support of the comments provided by the California Stormwater Quality Association (CASQA) in their August 2014 letter and we strongly encourage the State Water Board to incorporate their suggestions into the final version of the Trash Amendments.</p>		<p>Comment noted. Please see Responses to Comments 10.1-10.12.</p>
46.2	<p>Concerned about our ability to fund installation of trash capture devices with the ten year timeframe. Request that the State Water Board develop at funding source for permittees.</p>		<p>Please see Response to Comment 10.4.</p>

Comment Letter	Comment	Recommended Language	Response
47.1	<p>The County does encourage the SWRCB to conduct a thorough CEQA review that evaluates the environmental justice aspects of the trash amendments.</p>		<p>California Environmental Quality Act (CEQA), the State Water Board's certified regulatory program, and regulations for implementing CEQA do not require an analysis of how the State Water Board's proposed project would create environmental impacts that are disproportionate to low income or minority populations (often referred to as an "environmental justice analysis"). However, the State Water Board does consider these issues where there is information on the record that there may be environmental impacts that disproportionately affect environmental justice communities. The project would apply to "priority land uses" throughout California, applicable without regard to income levels or population diversity, and there is no information on the record to support that the Trash Amendments would have a disproportionate effect on environmental justice communities.</p>
47.2	<p>The County encourages the SWRCB to support and enforce source controls statewide through existing NPDES permits, and to support statewide legislation or regulation of recognized problem materials such as cigarettes, single-use plastic bags, and Styrofoam food packaging. We feel that these types of source controls would be far more effective and efficient than requiring local agencies to construct and maintain expensive treatment best management practices (BMPs).</p>		<p>Please see Response to Comment 4.5.</p>

Comment Letter	Comment	Recommended Language	Response
47.3	<p>The County is also concerned about the effect the proposed trash amendments may have on rural communities. Rural towns have commercial areas that would fall under the proposed trash amendments. 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. Based on their local planning processes, addressing issues such as the provision of safe and affordable drinking water or other local priorities may be the best use of their limited resources. The County therefore recommends that the State exempt rural areas from the trash amendments that are not directly contiguous to urbanized areas.</p>		Please see Response to Comment 45.16.
47.4	<p>The draft amendments provide for two tracks for achieving compliance. However, Track 1 appears to be the only viable option, as there is no effective means by which a community could verify that any selected combination of controls would achieve the same performance as full capture. Any community adopting Track 2 would be placing itself at risk of subjective compliance actions by the State or at risk of third party lawsuits.</p>		Please see Response to Comment 16.3.

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47.5	<p>Recommend eliminating the monitoring requirement for Track 2, and substitute an annual plan demonstrating compliance with a State-approved implementation plan.</p> <p>The draft trash amendment claims that this change is necessary to promote consistency throughout the state.</p>		<p>Comment noted. With 73 water bodies on California's 2008-2010 section 303(d) list of impaired waters for trash or debris, statewide consistency is necessary. The proposed Trash Amendments will provide statewide constituency to protect aquatic life and public health beneficial uses, and reduce environmental issues associated with trash.</p>
47.6	<p>The existing NPDES permits already contain provisions for the control of trash.</p>		<p>Existing NPDES permits do have provisions for the control of trash; however, trash continues to be discharged impairing the beneficial uses of California's surface waters.</p>
47.7	<p>The draft amendments would require full capture systems, which are to be designed to capture all trash 5mm and larger in size. However we have seen no documentation verifying that this goal is achievable nor does this goal truly address the issue of micro-debris.</p>		<p>The Trash Amendments propose a dual alternative compliance approach or 'tracks' allowing for the wide range of trash control methods to be implemented by a permittee to reduce trash and comply with the prohibition of discharge for trash. Full capture systems are just one of the reasonably foreseeable means of compliance. The Trash Amendments address micro-debris in two main ways. First, by capturing and stopping the transport of trash before entering the storm drain systems, minimizing the amount of breakdown that occurs. Second, the Trash Amendments propose a prohibition of discharge for preproduction plastics to waters of the state. Together these will reduce the amount of micro-debris in the surface waters of California. Please see Response to Comment 6.13. (See Final Staff Report Section 4.1 and 4.4.)</p>

Comment Letter	Comment	Recommended Language	Response
47.8	The staff report referred frequently to the findings of the National Resources Defense Council (NRDC) Report prepared by Kier Associates. However, the cost estimates provided in Appendix C of the staff report do not accurately reflect the findings of that report.		The State Water Board used the findings in the NRDC study to establish a baseline of current cost (before the implementation of the Trash Amendments), so the incremental cost from current expenditures could be determined. The NRDC study identified that the current average cost per capita per year was \$10.71. The Economic Considerations analysis estimates that between \$2.93 and \$7.77 more per resident might need to be spent each year for the next ten years to implement the Trash Amendments. (See Final Staff Report Appendix C.)
47.9	Not all the communities in the NRDC survey have fully integrated the BMPs necessary to satisfy the proposed trash amendment		The NRDC study did not include every community regulated under Municipal Stormwater Program. The data from the NRDC study was used to establish a baseline of current expenditures based on population size of each community. The State Water Board then compared the average current expenditures with the incremental expenditures that would be necessary to comply with the proposed Trash Amendments. The State Water Board took into account those communities that are already implementing actions to comply and also those that would need to take necessary actions to comply with the proposed Trash Amendments.
47.10	Communities in San Diego and Los Angeles areas that are currently implementing trash BMPs spend from \$23.42 to \$71.22 per capita annually		The State Water Board used the information from the Los Angeles Region as a baseline for the level of expenditures required to comply with the proposed Trash Amendments. The cost information was adjusted based on the unique characteristics in the Los Angeles Region regarding population density and priority land uses areas. Table 7 in Appendix C (page C-18) shows that the cost on trash controls in the Los Angeles Region ranges, on average, from \$7.79 to \$29.84 per capita per year.
47.11	According to the NRDC report, the average per capita spending within small communities with fewer than 15,000 citizens was nearly double the per capita spending within large communities.		The State Water Board agrees. In the Economic Considerations section of the Draft Staff Report, the average per capita cost for communities outside Los Angeles Region (see table 6 page C-17) was separated and compared with the average per capita cost for communities within the Los Angeles Region (see Table 7 page C-18).

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47.12	<p>The NRDC report also noted that the actual total cost is certainly higher than reported, as the study did not assess expenses incurred by counties or state agencies, nor did it include costs for monitoring and reporting.</p>		<p>Comment noted. On page Appendix C-10, a set of limitations and uncertainties of the analysis that were estimated using two separate methods reaching different (but similar) results were included in the Economic Considerations.</p>
47.13	<p>The staff report does not take into account that costs of compliance will not be spread across the entire population of a rural, Phase II community. Only drainage districts that have high-density areas will have to retrofit their storm drain systems, so only those affected property owners would bear the expense of a retrofit.</p>		<p>The economic analysis utilized two basic methods to estimate the incremental cost of compliance for permitted storm water discharge: the first method was based on cost of compliance per capita, and the second method was based on land cover. At statewide view, the economic analysis did not cover the specifics of each drainage district. Overall, the economic analysis estimated the incremental annual cost to comply with the requirements of the proposed Trash Amendments ranged from \$4 to \$10.67 per year per capita for MS4 Phase I NPDES permittees and from \$7.77 to \$7.91 per year per capita for smaller communities regulated under MS4 Phase II permits.</p>
47.14	<p>The staff report does not discuss how communities are supposed to fund the mandatory retrofit. Phase II communities would have a difficult time raising funds under existing Proposition 218 requirements. Additionally, the draft trash amendments do not consider the financial limitations of economically challenged communities.</p>		<p>The State Water Board disagrees that the Trash Amendments require mandatory retrofits. Please see Response to Comment 10.4.</p>
47.15	<p>Retrofitting existing high trash volume areas would be technically infeasible in many developed areas due to localized flooding issues: a. Roadway storm drain inlets are built to accommodate design flows without flooding the adjacent</p>		<p>The proposed Trash Amendments do not specify the need for retrofitting. The dual alternative compliance approach or 'tracks' allow for a wide range of trash control methods to be implemented by a permittee to reduce trash and comply with the prohibition of discharge of trash. Additionally, with proper operation and maintenance, full capture systems should not result in localized flooding.</p>

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	<p>roadways. The inexpensive retrofit options of installing trash racks, screens, or inserts would reduce the flow capacity of the storm drain system, leading to localized flooding and a threat to public safety;</p> <p>b. Existing, fully developed commercial or high-density residential neighborhoods will not have sufficient open space to install infiltration basins, detention basins, or trash nets.</p>		
47.16	<p>Some BMPs, such as the Gross Solids Removal Devices, have high vandalism rates that are not mentioned in the staff report.</p>		<p>The potential vandalism of full capture systems is discussed in the Aesthetics Section of Appendix B of the proposed Final Staff Report on pages B-2-4.</p>
47.17	<p>The County also recommends that the SWRCB investigate statewide funding sources for water quality controls. For example, pursuant to the California Health and Safety Code Section 25299.41, the state charges a special maintenance fee on underground storage tanks; this fee is due to sunset within the next year. The SWRCB should consider repurposing this special tax for purpose of providing financial assistance to communities for installation of permanent BMPs.</p>		<p>Comment noted. The State Water Board appreciates this suggestion; however, repurposing special maintenance fee on underground storage tanks is outside of the scope of these Trash Amendments.</p>
48.1	<p>The Dart Container Corporation of California's letter includes a number of reasons why they oppose regulatory source controls, specifically product bans. These objections include generally include</p>		<p>Please see General Response to Comment Letter 1 and Comment 1.3. Commenter's concerns relate to regulatory source controls and time extensions which have been removed from the proposed Final Trash Amendments. (Ocean Plan Amendment at removed III.L.5; Part I ISWEBE at removed IV.A.6) Based on the revisions and discussions in the</p>



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	<p>the following</p> <ul style="list-style-type: none"> <li>• Product bans are ineffective at reducing trash</li> <li>• Foam is environmentally and economically beneficial</li> <li>• The Trash Amendments encourage and rely on product bans.</li> <li>• The Trash Amendments fail to account for the substitution effect.</li> <li>• The Trash Amendments fail to account for the potential unintended environmental and economic consequences of bans.</li> <li>• Product bans violate laws such as equal protection and due process, the Clean Water Act and Porter Cologne.</li> <li>• The Trash Amendments exceed the state board's authority under the Water Code.</li> </ul>		<p>referenced responses, commenter's underlying arguments are not applicable to the Trash Amendments which will be considered for adoption by the State Water Board and they will not be responded to in detail.</p>
48.2	<p>Violates the California Environmental Quality Act. Bans can have significant environmental impacts. Yet the staff report fails to analyze these impacts, alternatives to Track 2 that do not encourage product bans, or mitigation measures.</p>		<p>Please see General Response to Comment Letter 1 and Responses to Comments 1.1 and 1.3.</p>
48.3	<p>Violates the Clean Water Act. By allowing MS4 permittees to rely on bans of polystyrene foam and other materials,, the trash amendments violate the "maximum extent practicable" standard that the Clean</p>		<p>Please see Responses to Comments 1.1, 1.2, 1.3, General Response to Comment Letter 1, 4.6, and 29.4.  Commenter's primary objection concerning the application of the "maximum extent practicable standard" relates to product</p>

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	<p>Water Act imposes on MS4 permittees. The Trash Amendment's establishment of a new water quality objective for trash violates the antidegradation policy because basin plans contain water quality objectives that prohibit floatable, suspendable, and settleable material. To the extent that the trash amendments would allow such materials to enter the receiving waters as a result of ineffective regulatory source controls that the trash amendments encourage, the amendments relax the existing water quality objectives.</p> <p>The trash amendments also fail to require adequate monitoring of the effectiveness of Track 2.</p>		<p>bans. Based on discussion contained in the above-referenced responses to comments, commenter's underlying arguments are not applicable to the Trash Amendments which will be considered for adoption by the Board and they will not be responded to in detail. But see also Response to Comment 29.4.</p> <p>The Trash Amendments' establishment of a statewide narrative water quality objective does not violate the State or federal antidegradation policy. A water quality standards revision must comply with the state and federal antidegradation policy. The proposed Trash Amendments establish a specific statewide narrative water quality objective for "trash." The proposed statewide objective for trash is: "Trash shall not be present in ocean waters, along shorelines or adjacent areas in amounts that adversely affect beneficial uses or cause nuisance" and "Trash shall not be present in inland surface waters, enclosed bays, estuaries, and along shorelines or adjacent areas in amounts that adversely affect beneficial uses or cause nuisance." (Ocean Plan Amendment at II.C.5; Part I ISWEBE at III.A.) "Trash" is defined as "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." (Ocean Plan Amendment and Part I ISWEBE definition of "trash.")</p> <p>The proposed statewide objective for trash supplements the existing narrative water quality objectives pertaining to "floating materials," "suspendable material," and "settleable material" and does not replace them. Nowhere do the Trash Amendments provide that the water quality objective for trash substitutes or takes the place of existing water quality objectives established for "floating materials," "suspendable material," and "settleable material." Additionally, the basin plans for the North Coast, San Francisco Bay, Central Coast, Los Angeles, Central Valley</p>

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			<p>(Sacramento and San Joaquin Basins and Tulare Lake Basin), Santa Ana, Colorado River, Lahanton, San Diego Regional Water Boards, virtually all prohibit the presence of “floating materials,” “suspended material,” and “settleable material” in concentrations that would adversely affect beneficial uses or cause nuisance. The statewide trash objective utilizes the same standard. In any case, because the existing and proposed objectives are distinct, the Water Board’s implementation and enforcement of the prohibition of discharge of trash to implement the statewide trash objective will not relax the existing water quality objectives pertaining to “floating materials,” “suspended material,” and “settleable material.” The existing objectives for pertaining to “floating materials,” “suspended material,” and “settleable material” remain in effect.</p> <p>The Trash Amendments require adequate monitoring. The Amendments (Ocean Plan Amendment at III.L.5.b; Part I ISWEBE at IV.A.4.b) requires that permittees implementing Track 2 shall “develop and implement monitoring plans that demonstrate the effectiveness of the full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls, and compliance with full capture system equivalency”. In addition, the proposed Final Trash Amendments include additional language to elaborate on how a municipality could demonstrate full capture system equivalency, including two examples. (See Ocean Plan Amendments and Part I ISWEBE definition for “full capture system equivalency.”)</p>
48.4	Violates the Water Code section 13241 because the staff report does not consider the costs of regulatory source controls such as product bans, which will place substantial economic burden on local business, individuals, and government agencies (including schools).		Please see General Response to Comment Letter 1 and Response to Comment 1.3. Commenter’s concerns relate to regulatory source controls (product bans) and time extensions which have been removed from the proposed Final Trash Amendments. (Ocean Plan Amendment at III.L.5; Part I ISWEBE at IV.A.6.) Based on the revisions and discussions in the referenced responses, commenter’s underlying arguments are not applicable to the Trash Amendments which will be considered for adoption by the Board and they will not be

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	<p>Violates Water Code section 13242 because</p> <p>Bans of polystyrene foam are not “appropriate” and “necessary” and does not meet the requirement for effective compliance monitoring.</p>		<p>responded to in detail.</p> <p>Regarding Water Code Section 13241, that statute requires the Water Board to consider a number of factors when establishing a water quality objective, including “economic considerations.” The Final Staff Report’s discussion fulfills the requirements of section 13241. (See Final Staff Report at Section 9.) Specifically to the commenter’s footnote 52 in their letter, which refers to footnote 9, which contains reference to EXHIBITS 5 and 6 of the commenter letter, the State Water Board considered the analysis of the cost of banning polystyrene food and beverage containers in California in regards to this comment. However, under state law the State Water Board does not conduct cost-benefit analysis and EXHIBITS 5 and 6 specifically relate to regulatory source controls (product bans) and time extensions which have been removed from the proposed Final Trash Amendments. As these elements have been removed, modifying the Economic Analysis in Appendix C is unnecessary.</p> <p>Regarding Commenter’s Water Code Section 13242 objection, commenter asserts product bans are not necessary or appropriate and therefore violate the statute. Product bans are no longer a part of the Trash Amendments and are beyond the scope of the State Water Board’s consideration of adopting same.</p>
48.5	<p>The proposed trash amendments improperly assert product regulatory authority. The State Board’s mandate to protect water quality does not include general authority to regulate products or individual consumer choices or individual actions before a discharge occurs or before a particular product becomes</p>		<p>Regulatory source controls have been omitted from the final proposed Trash Amendments. Please see response to General Response to Comment Letter 1 and Responses to Comments 1.3 and 48.1.</p> <p>Additionally, with the Trash Amendments’ continued inclusion of institutional controls, which include “ordinances,” the State Water Board is not regulating individual consumer choices or</p>

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	a "waste." By encouraging bans, the State Board is exceeding its authority.		individual actions. Each permittee may elect which particular type of trash nonstructural treatments controls to implement to control trash within its jurisdiction. (Ocean Plan Amendment at III.L.2; Part I ISWEBE at IV.A.3.) Institutional source controls may include street sweeping, sidewalk trash bins, collection of the trash, antilitter educational and outreach programs, and ordinances. The State Water Board is properly regulating the discharge of pollutants through the establishment of the prohibition and implementation elements related to the prohibition of trash. (Ocean Plan Amendment at III.L.6 and III.L.1-3; Part I ISWEBE at IV.A.1-4.)
48.6	Track 2 should explicitly disallow MS4 permittees from relying on measures that the data show are ineffective to reduce trash in the receiving waters, including polystyrene foam bans.		Please see response to General Response to Comment Letter 1 and Comment 1.3. Commenter's objection relates to product bans and, as explained in the referenced responses to comments, product bans are no longer a component of the Trash Amendments which will be considered for adoption by the Board and they will not be responded to in detail.
48.7	Track 2 should have a certification process for non-structural best management practices. Before MS4 permittees rely on such BMPs, the State Water Board should certify them as effective, based on substantial evidence developed in a public process with opportunity for comment.		The State Water Board agrees that both treatment and institutional controls must be effective at controlling and reducing trash. However, the State Water Board is only undertaking a certification process for full capture systems. Additionally, a permittee that elects to comply with the Trash Amendments under Track 2 are required to submit an implementation plan which must describe the combination of controls selected by the permittee and the rationale for the selection, how the combination of controls is designed to achieve full capture system equivalency, and how full capture system equivalency will be demonstrated. (Ocean Plan Amendment at III.L.4.a.1; Part I ISWEBE at IV.A.5.a.1.)

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48.8	Track 2 should be revised to include adequate monitoring to determine that such non-structural BMPs are effective and that trash is being reduced in the receiving waters.		<p>See Responses to Comments 6.2 and 48.7.</p> <p>Additionally, monitoring for Track 2 controls focuses on accessing the effectiveness of trash controls and compliance with full capture system equivalency. Therefore, the permittee implementing the institutional controls outlined in the implementation plan must demonstrate the plan being implemented, or the total combination of controls, is effective at achieving full capture system equivalency.</p> <p>The State Water Board is supportive of the Proposition 84 Grant funded Tracking California's Trash Project, as State Water Board staff are on the technical advisory group, to focus on monitoring the effectiveness of institutional controls. The State Water Board sees this project as providing institutional trash monitoring guidance to support the flexibility provided in the monitoring and reporting provisions of the Trash Amendments.</p>
48.9	The staff report fails to provide sufficient information regarding the cost effectiveness of any of the institutional controls it recommends.		<p>Please see Response to Comment 29.4.</p> <p>Additionally, regarding Water Code Section 13241, that statute requires the Water Board to consider of a number of factors when establishing a water quality objective, including "economic considerations." Such consideration does not require consideration of cost effectiveness or cost benefit analysis concerning reasonably foreseeable methods of compliance. The Final Staff Report's discussion fulfills the requirements of Section 13241. (See Final Staff Report at Section 9.)</p> <p>In any case, the Economic Considerations in Appendix C provides a summary overview of the costs associated with</p>

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			<p>reasonably foreseeable means of compliance that permittees may select to be in compliance with the Trash Amendments. The economic analysis was conducted at the macro level to assess the estimated overall impact of the Trash Amendments and provides gross average estimates of the cost per capita and the cost per acre based on specific cost assumptions. The economic analysis set forth the costs associated to implement Track 1, to which each permittee subject to the dual approach may implement, complying with Track 2 requires the permittee to develop an approach or approaches to demonstrate full capture system equivalency (e.g., the trash load that would be reduced if full capture systems were installed, operated, and maintained for all storm drains that capture runoff from the relevant areas of land). Beyond this general assertion in the introductory text, the commenter has not elaborated on what part of the economic analysis is deficient, except to note that the costs of implementing a product ban were not considered. As noted in the General Response to Comment Letter 1 and the response to comment 1.3, product bans, and associated incentives have been removed from the amended policy removing any need to consider those costs.</p>
49.1	<p>The Port of Stockton is already doing many things to address stormwater quality, including trash reduction. The Port currently spends approximately \$900,000 annually on its stormwater quality and surface water protection programs. The Port has no additional funds to spend on addressing trash and no additional financial resources are warranted since, because of the controls and programs already in place, trash is not a problem at the Port. If these Trash Amendments are adopted, the Port may have to reduce its efforts in other areas in order to focus on</p>		<p>Trash is a priority pollutant across California. While the State Water Board is supportive of the Port of Stockton's storm water quality and surface water protection programs, these programs should include trash as a priority pollutant. The State Water Board disagrees that efforts will need to be reduced from other programs in order to address the discharge of trash. There are numerous treatment and institutional controls for trash that also address other pollutants.</p>

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49.2	<p>these unneeded requirements.</p> <p>The Trash Amendments will unnecessarily re-prioritize where the Port and other MS4 and industries are forced to focus their limited financial resources. While trash can be a severe localized problem, particularly at beaches that drain large watersheds, trash is not a problem for 98% of the state. Further, there are no waters in the Central Valley Region listed as impaired for trash. The Port believes that limited public dollars should not be focused on an issue that is not a problem everywhere. Where problems do not exist, the policy or statewide plan cannot be "deemed essential by the State Board for water quality control." Water Code §131452(c).</p>		Please see Responses to Comments 10.6, 10.7, and 44.1.
49.3	<p>Statewide consistency, while potentially a laudable goal, is not how our state water quality laws were envisioned. Instead, California was split into 9 distinct geographical regions, each of which may have differing water quality issues and priorities. The State Water Board should respect those differences and not superimpose "priorities," especially costly and unnecessary ones that usurp local watershed programs' priorities. Such an action by the State Water Board would be contrary to Water Code Section</p>		Please see Responses to Comments 10.7 and 44.1.



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	<p>132250), which encourages "coordinated regional planning and action for water quality control." (Emphasis added.) Furthermore, the proposed Trash Amendments, as drafted, fail to ensure statewide consistency because certain areas (parts of Los Angeles area under Trash TMDLs and combined sewer systems) are excluded from coverage. (See e.g., Trash Amendments, Draft Staff Report at pp. C-17, C-23, C-50.)</p> <p>Recommendation: For these reasons, the plan should be modified to either adopt the "No Project" alternative and continue to allow regional control over regulating trash, or to narrow the scope to just adopting a consistent statewide narrative water quality objective that would be implemented with current permits and with TMDLs, as needed, when impairments are demonstrated to exist.</p>		
49.4	<p>Little to no evidence was presented in the Trash Amendments that trash from construction and industrial sites represents more than a fraction of a percent of the trash statewide. Moreover, construction sites are mostly temporary and individually do not qualify as a long-term source of trash, even if trash were to leave a site. The Port has many tenants covered by the Construction and Industrial General Storm Water</p>		<p>Dischargers enrolled under the Construction General Permit (CGP) are already required to comply with a prohibition to discharge debris and trash from construction sites (State Board Action 2009-0009-DWQ amended by 2010-0014-DWQ &amp; 2012-0006-DWQ. Prohibition III. D. page 21). The Trash Amendments are not intended to require additional trash control provisions for CGP permittees. The State Water Board believes that trash is a controllable pollutant for dischargers enrolled under the Industrial General Permit. Please see Responses to Comments 5.1, 5.2, and 6.4.</p>

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	<p>Permits and does not want to lose more tenants to another state that does not impose such stringent and seemingly unnecessary requirements on their businesses. Many of the Port's tenants have already suffered from citizen suits, trying to enforce the requirements of the industrial general permit. Adding explicit trash requirements may increase these suits where trash is found that could be alleged to have left that property. In addition, many of these sites do not have drain inlets, and cannot comply with the full capture track, thereby forcing them into additional work and monitoring when, again, there is no indication of a trash issue. Although the cost estimates for compliance for these sites seems relatively small (e.g., less than \$4000 per facility)(Draft Staff Report at C-48), those cost estimates may not be accurate and many small companies may not be able to absorb this additional cost on top of the cost of all of the new requirements under the State Water Board's new industrial general permit set to be effective in July of 2015.</p> <p>Recommendation: For these reasons, the Port urges, at the very least, the adoption of an option not including industrial and construction permittees, or any other permittee that can demonstrate no trash</p>		

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49.5	<p>problem exists.</p> <p>The Trash Amendments seemed to lack information on the actual cost, impacts, and effectiveness of similar programs. The Los Angeles area trash controls under the various TMDLs have been in place for over a decade. The Port was disappointed not to see a clear analysis of the actual cost and impacts (both environmental and economic) of these programs, as compared to the estimates provided in the TMDLs, to determine if the initial estimates were accurate. In addition, there should have been some analysis of the effectiveness of the programs. For the hundreds of millions of dollars expended, has trash been completely eradicated from those areas, reduced slightly, or is no progress really noticeable? These are the types of analyses that need to be conducted prior to adopting another duplicative program. These analyses would also improve the impacts analysis presented as required under the California Environmental Quality Act ("CEQA") since the currently included analyses do not seem to capture all possible impacts, or their extent.</p>		<p>Under the requirements of Water Code sections 13170 and 13241, subdivision (d) the State Water Board is required to consider economics when establishing water quality objectives. Appendix C of the Draft Staff Report includes an extensive economic analysis that provides a consideration of potential costs for a suite of reasonably foreseeable measures to comply with the proposed Trash Amendments. This economic analysis utilized two basic methods to estimate the incremental cost of compliance for permitted storm water discharges: the first method was based on cost of compliance per capita, and the second method was based on land cover. There is a comparison of the cost for trash and debris TMDLs in the Los Angeles and the proposed final Trash Amendments on pages C-19-21 of the proposed final Staff Report. For additional discussion on Water Code section 13241, please see Response to Comment 29.4.</p>
49.6	<p>The proposed Trash Amendment recommends the installation and operation of full capture devices that capture all debris (including natural</p>		<p>The State Water Board agrees that flooding is a potential hazard when filters or screens become blocked by trash and debris preventing the discharge of storm water into the drain. This would be of particular concern in areas susceptible to high</p>

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	<p>woody and leafy debris) down to a size of 5 mm or greater. (Draft Staff Report at p. 13, fn. 5.) Because these devices do not differentiate between the type of debris captured, they can easily become blocked by leaves and other vegetation blown off of trees during the Central Valley's strong winter storms, notwithstanding efforts to clean the inlets prior to storm events. This blockage will back up water that would otherwise go into the drainage system, and will cause localized flooding that could adversely impact Port or tenant buildings and infrastructure, and could impose financial risk to the Port for causing the flooding if claims are made for any damage. The Trash Amendments give this issue short shrift (Draft Staff Report at p. 135) and conclude that the full capture devices should just be designed with an "automatic release mechanisms or retractable screens that allow flow-through during wet-weather," an "overflow/bypass structure," or to "allow for bypass when storm events exceed the design capacity." (<i>Jd.</i> at p. 136.) These bypasses thwart the entire reason for the devices in the first place. If the device is merely going to bypass and allow trash and other debris to pass through during wet weather events, that raises the question of the effectiveness of and</p>		<p>leaf-litter rates. This potential impact can be diminished through the use of inserts that are designed with automatic release mechanisms or retractable screens that allow flow-through during wet-weather, and by performing regular maintenance to prevent the buildup of trash and debris. The exposure of people and property to flooding hazards after mitigation is considered less than significant. The State Water Board recognizes that a full capture system may not be able to capture trash as well as when storm events exceed the design capacity. However, with proper and regular maintenance, full capture systems are highly efficient at trapping all particles that are 5 mm or greater.</p>

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50.1	<p>need for this costly approach.</p> <p>In the Supporting Draft Report, Page 1; First Paragraph; second sentence: Preproduction plastic pellets are an integral part of the plastic product production process; and therefore, are not a waste and should not be defined as trash. To the extent that the State Water Board needs to regulate preproduction plastics, that regulation should occur through the Industrial General Permit (IGP) (including but not limited to expanding the IGP to include all industries that use plastics. But, it needs to be done separately from trash-related Plan Amendments. Recommendation: Suggest removing all references to preproduction plastic pellets from the trash amendments and creating a separately regulatory scheme therefore.</p>		<p>The Trash Amendments do not address the use of preproduction plastics in a production process, but only the discharge of preproduction plastics in to waters of the state. (Ocean Plan Amendment at III.I.6.e; Part I ISWEBE at IV.A.2.e.) At the point of discharge, the preproduction plastics become a waste subject to control under Porter Cologne. Regardless of the proposed Trash Amendments, all facilities with the potential to discharge preproduction plastics must still comply with permit requirements issued pursuant to Water Code § 13367(a) and the best management practices requirements in the Industrial Storm Water General Permit. The Industrial General Permit is the principal means of addressing the discharge of preproduction plastics and has made suitable clarifications in the section on prohibitions.</p>
50.2	<p>In the Supporting Draft Report, Page 1, first paragraph, third sentence: Improper sentence structure or incorrect premise. Appliances (as a sentence two specifically listed form of 'trash') may end in a waterway but not 'frequently' nor ever via the method stated. Recommendation: Suggest either removing appliances from the specifically listed types of trash or creating another sentence that recognizes that there are paths</p>		<p>The sentences flagged by the commenter says, " trash discarded on land frequently ends up in waterways and the ocean..." This sentence does not say or imply that appliances are washed into gutters and storm drains. Nonetheless, while large appliances might not be readily transported via storm drain, they are part of the mixture of trash found in the water bodies. No change is needed.</p>

Comment Letter	Comment	Recommended Language	Response
50.3	<p>not associated with storm drains by which trash enters waterways.</p> <p>In the Supporting Draft Report, page 4, second full-paragraph, final sentence: Based on the statement made by this sentence, 'where runoff and storm water transport trash into these water ...', it is not apparent that Water Board Authority extends to appliances. Recommendation: Suggest removing appliances from the specifically listed forms of trash.</p>		<p>While large appliances might not be readily transported via storm drain, they are part of the mixture of trash found in the water bodies. In addition, the point of the sentence is to clarify that it is at the point of discharge into waters of the state that trash becomes subject to the Water Boards jurisdiction. Appliances discharged into waters of the state would constitute a waste discharge subject to the Water Board's authority. That some wastes are discharged through storm drains (e.g., point source) or some other mechanism (e.g. non-point source) does not affect the Board's jurisdiction. No changes to the document are needed.</p>
50.4	<p>In the Supporting Draft Report, Page 6, Second Paragraph: Asserts that trash, 'jeopardizes public health and safety' and poses 'harm and hindrance ...'. Concur with the latter but, 'public health and safety' is a legal concept. As such, an assertion that it is in jeopardy needs a citation that demonstrates the magnitude of that jeopardy.</p>		<p>Trash impacts public health via a number of pathways that are discussed (with citations) in Staff Report Section 1.4 and Appendix A.</p>
50.5	<p>In the Supporting Draft Report, Page 6; numeric bullets: Please note that none of the bullets describe a trash related mechanism applicable to a product line component (aka: preproduction plastic pellets). Suggest that preproduction plastic pellets be removed from the definition of trash.</p>		<p>Preproduction plastics are covered under bullet 2. If preproduction plastics are improperly disposed, then they are considered trash that may be delivered by storm events via the storm drain system to receiving waters. Preproduction plastics will not be removed from the definition of trash.</p>

Comment Letter	Comment	Recommended Language	Response
50.6	<p>In the Supporting Draft Report, Page 6; Final Paragraph; second sentence: 'The main transport pathway of trash to receiving water bodies is through storm water transport.' This statement conflicts with the initial statement of Section 2.4.1 wherein other transport mechanisms also are recognized as being significant. This statement needs at least to be modified for internal consistency and to cite the references upon which it relies. Alternatively, it can be removed. CHECK APPENDIX A</p>	<p>Suggest adding 'select and implement either' into the last sentence -7 '... may require the MS4 to select and implement either Track 1 or Track 2 ...'</p>	<p>Both sections referenced by the commenter state that trash is predominantly transported through storm water transport. That other significant mechanisms also exist does not make this assertion invalid. In addition, the Water Board cannot divine what the commenter intends by "CHECK APPENDIX A." No change will be made to the Staff Report.</p>
50.7	<p>In the Supporting Draft Report, Page 11; Table 1.: An IGP facility cannot use a full capture device as later defined (1 00% to 5mm) to capture preproduction plastic pellets (-1 mm). Recommendation: Suggest regulating preproduction plastic pellets as a component of production not as trash.</p>		<p>If preproduction plastics are improperly disposed, then they are considered trash regardless of size. As noted in the footnote to table 1, full trash capture systems would only be allowed if a facility demonstrated an inability to comply with the outright prohibition contained within the applicable NPDES permit regulating the industrial or construction facility. (See also Ocean Plan Amendment at III.L.2.c; Part I ISWEBE at IV.A.3.c.) Additionally, please see response to Comment 42.10. No change will be made to the Staff Report.</p>
50.8	<p>In the Supporting Draft Report, Page 11; Section 2.2 Water Quality Objective: The Trash Amendments recognize that MS4 transport of trash is but one of multiple significant transport mechanisms (see Section 2.4.1). Therefore, compliance with the objective ('no trash accumulation ...') via implementation through MS4 Permits cannot be obtained. Note:</p>		<p>There are several pathways for the transport of trash to California's surface waters. The transport of trash via storm water is a large contributor; however, the State Water Board recognizes that it is not the sole contributor of trash. For this reason, the Trash Amendments are applicable to NPDES permits, WDRs, and Waivers of WDRs. The State Water Board understands the confusion in the beneficial uses table and have removed the "Any amount of trash impacts this beneficial use" from Table 14 of the proposed Final Staff Report.</p>

Comment Letter	Comment	Recommended Language	Response
50.9	<p>The objective nomenclature modifies the 'no trash accumulation' by stating, 'in amounts that would either adversely affect beneficial uses, or cause nuisance.' However, Appendix A, Table 14 defines the amount of trash necessary to adversely affect beneficial uses and states, 'Any amount of trash impacts this beneficial use' for both the Water Contact Recreation and Non-Contact Water Recreation beneficial uses.</p> <p>In the Supporting Draft Report, Page 11, Section 2.2 Water Quality Objective: Need to define 'adjacent to'. Perhaps use normal high water line.</p>		<p>The meaning of "adjacent" is self-evident insofar as it is commonly understood to mean "next to" or "adjoining" to the water body. The term's meaning is further informed by the context in which it appears in the narrative water quality objective as being present in amounts that adversely affect beneficial uses or cause nuisance. Further defining is not needed.</p>
50.10	<p>In the Supporting Draft Report, Page 12, Section 2.4.1 Permitted Storm Water Discharges; first sentence: see comment 7.</p>		<p>Please see response to Comment 50.7. No change will be made to the staff report.</p>
50.11	<p>In the Supporting Draft Report, Page 13, first full Paragraph, third sentence: 'MS4 storm water permittees that opt... plans to their respective Water Board.'</p> <p>Recommendation: For consistency with the List of Abbreviations and to avoid confusion, correct to either, ' ... Regional Water Board.' or 'Water Boards.'</p>		<p>The "Water Board" refers to either the State Water Board or the respective regional water board. The State Water Board and nine regional water boards are collectively known as the Water Boards. This abbreviation is included in the list of abbreviations in the proposed Final Staff Report. Additionally, the Water Board is synonymous to the permitting authority, which refers to either the State Water Board or regional water board, whichever issues the permit. No change will be made to the Staff Report.</p>



Comment Letter	Comment	Recommended Language	Response
50.12	<p>In the Supporting Draft Report, Page 13, Track Discussion: As discussed during the Sacramento stakeholder meeting, while it is recognized that quality Track 2 Plans need to be submitted, the compliance clock runs regardless of Regional Board approval. Suggest that Water Board be corrected Water Boards (see Comment 11) and the trash amendments either stipulate approval after 6-months or an appeal process involving the State Water Board.</p>		<p>Given that the implementation plans are due to the permitting authority within 18 months of the receipt of the Water Code section 13267 or section 13383 order or from the effective date of the implementing permit, and full compliance is not required for ten years thereafter, the State Water Board does not share commenter's concern about delays by the permitting authority in approving the implementation plans. (Ocean Plan Amendment at III.L.4.a; Part I ISWEBE at IV.A.5.a.)</p>
50.13	<p>In the Supporting Draft Report, Page 13; Last Paragraph: Needs clarification or deletion. The list provided (in the second sentence) includes only geographic areas controlled by entities that have the ability to install and maintain full capture devices within the drop inlets on their property. This concept is also true for Non-Traditional MS4s. Therefore, if one of the Water Boards determines that a geographic area is impairing water quality due to a lack of compliance with the trash amendments that Water Board (State or Regional) can Order the owner of that geographic area to comply.</p>		<p>Jurisdictions of Non-Traditional MS4s likely do not have priority land uses. For these permittees, a different set of land use types may require trash controls at the discretion of the permitting authority. Additionally, land uses or locations outside of the priority land uses may generate substantial amounts of trash. For those areas, the permitting authority has discretion to determine if such areas require trash controls. (Ocean Plan Amendment at III.L.2.d; Part 1 ISWEBE at IV.A.3.d.) Additionally, please see Response to Comment 6.6.</p>
50.14	<p>In the Supporting Draft Report, Page 13, last paragraph, last sentence: see Comment 11 regarding 'Water Board'.</p>		<p>Please see response to Comment 50.11.</p>

Comment Letter	Comment	Recommended Language	Response
50.15	In the Supporting Draft Report, Page 13, last paragraph, last sentence: (Comment 13 notwithstanding) If the trash amendments allows one of the Water Boards to require an MS4 to adopt a Track on behalf of/instead of the responsible entity, the trash amendment must also dictate the need for financial restitution by that entity to the MS4 for implementation, maintenance etc. of the required Track.		The commenter appears to misunderstand application of the Trash Amendments. Regarding trash controls within the priority land uses within an MS4's jurisdiction, the MS4 may elect which track to undertake. (Ocean Plan Amendment at III.L.2.a; Part 1 ISWEBE at IV.A.3.a.) Financial restitution for its implementation is not required.
50.16	In the Supporting Draft Report, Page 13, last paragraph, last sentence: The current wording of the last sentence allows the Water Boards to select the Track that that the MS4 is required to implement (regardless of the Track the MS4 is implementing for itself). Recommendation: see recommended language.		The State Water Board disagrees as the sentence focuses on other specific land uses or locations (e.g., parks, stadia, or roads leading to landfills) determined to generate substantial amount of trash. The permittee would select the compliance track, not the permitting authority. (Ocean Plan Amendment at III.L.2.d; Part 1 ISWEBE at IV.A.3.d.) Please see Response to Comment 6.6.
50.17	In the Supporting Draft Report, page 14, final paragraph: Fix multiple 'Water Board' references to an accepted abbreviation.		Please see Response to Comment 50.11.
50.18	In the Supporting Draft Report, page 14; final paragraph: Does a permittee choosing the second option need to monitor? Is any reporting required for either option?		Please see Response to Comment 5.1 and 5.2.
50.19	In the Supporting Draft Report, page 15; Non-point Source Dischargers; first sentence: At the discretion of which 'Water Board'?		Please see response to Comment 50.11.

Comment Letter	Comment	Recommended Language	Response
50.20	In the Supporting Draft Report, page 15, Section 2.5 Time Schedule, first paragraph, last sentence: Which 'Water Board' can set compliance milestones?		Please see response to Comment 50.11.
50.21	In the Supporting Draft Report, Page 15; Section 2.5 Time Schedule; Third Paragraph; second sentence: Correct 'Water Board to either 'State Water Board' or 'Regional Water Board'.		Please see response to Comment 50.11.
50.22	In the Supporting Draft Report, same location as Comment 21: Why not save two years and just require that MS4 Phase 1, MS4 Phase 2 and Caltrans notify the applicable 'Water Board' of their selected Track within 6-months?		The permitting authority can be either the State Water Board or one of the nine regional water boards. Within the Water Code, the legal mechanism for the Water Boards to require MS4 permittees (including Caltrans) to notify the permitting authority of their selected track is to issue an order under Water Code section 13267 or 133383. The requirement to issue the order within eighteen months of the effective date of the Trash Amendment was crafted to provide sufficient time for the permitting authority to request additional action from the permittee outside the scope of the existing permit conditions. While shortening this time period is preferable, the State Water Board recognizes that additional time is necessary for the permitting authority. In that time, permittees can be thoughtful on their track selection and implementation plan development following the effective date of the Trash Amendments.
50.23	In the Supporting Draft Report, page 15, Section 2.5 Time Schedule, Third/Fourth Paragraph: There is a Caltrans conflict between these paragraphs. Paragraph 3 says a Water Board will issue a request to Caltrans so Caltrans can notify that Water Board of its selected Track while paragraph 4 requires that		The State Water Board disagrees with this comment. In Section 2.5 of the proposed Final Staff Report, the third paragraph primarily discusses the compliance schedule for MS4 Phase I and Phase II permits, which specifies the three month track selection period. The fourth paragraph focuses on Caltrans, which does not include a track selection. As Caltrans is a linear system, trash control through a Track 2 framework is the only feasible approach.

Comment Letter	Comment	Recommended Language	Response
50.24	<p>Caltrans use Track 2 via the State Water Board requesting an implementation plan.</p> <p>In the Supporting Draft Report, page 16; first full paragraph; first sentence: Which 'Water Board'?</p>		<p>Please see response to Comment 50.11.</p>
50.25	<p>In the Supporting Draft Report, page 16, Section 2.7 Monitoring and Reporting Requirements, first paragraph, first sentence: Potential for significant conflict between the monitoring and reporting required by the State Water Board and those required by the Regional Water Board. Suggest 'Water Boards' be replaced by 'Regional Water Board'.</p>		<p>There is no conflict in monitoring and reporting between the State Water Board and a regional water board. Please see Response to Comment 50.11.</p>
50.26	<p>In the Supporting Draft Report, page 16, Section 2.7 Monitoring and Reporting Requirements, first paragraph, second sentence: Empowers State Water Board or Regional Water Board staff to require any magnitude of effort regardless of the Section 4.10 Issue 10 option selected/approved by the State Water Resources Control Board or the Track chosen by the permittee. Recommend deletion of this sentence.</p>		<p>The State Water Board disagrees. The proposed Trash Amendments set up minimum monitoring and reporting requirements to provide an equal baseline across California. The opportunity exists for more stringent control and monitoring requirements. Please see Responses to Comments 4.6 and 6.2.</p>

Comment Letter	Comment	Recommended Language	Response
50.27	In the Supporting Draft Report, page 16, Section 2.7 Monitoring and Reporting Requirements, second paragraph, second sentence: To avoid conflict between the intent of this paragraph and that which is stated in the first paragraph of this Section, 'minimum' needs to be deleted from this sentence.		There is no conflict; the minimum requirements are that which are required by the Trash Amendments. Track 1 includes the minimum reporting requirements and does not require monitoring, whereas Track 2 requires both.
50.28	In the Supporting Draft Report, page 16, Section 2.7 Monitoring and Reporting Requirements, Second Paragraph, last sentence: Clarify which 'Water Board'.		Please see response to Comment 50.11.
50.29	In the Supporting Draft Report, Page 16; Section 2.7 Monitoring and Reporting Requirements; Third Paragraph; third sentence: Clarify which 'Water Board'.		Please see response to Comment 50.11.
50.30	In the Supporting Draft Report, page 18 Section 2.12 Other Approvals Required to Implement the Trash Amendments: a) The California Ocean Protection Commission (OPC) has a dramatically different approach to trash reduction than that which is being proposed in the Amendments. While their 'approval' may not be necessary, better explanation of the interactions between the OPC's emphasis on source removal and the State Water Board's abandonment thereof should be documented. b) Track 2 has been offered by the State as a path		The State Water Board has engaged with Ocean Protection Council on the Trash Amendments, who is supportive of the Trash Amendments. On August 27, 2014, the Ocean Protection Council adopted a resolution supporting the adoption of the proposed Trash Amendments. Please find the Ocean Protection Council's Resolution at: <a href="http://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20140827/Item4b_TrashPolicyResolution_Resolution_FINAL.pdf">http://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20140827/Item4b_TrashPolicyResolution_Resolution_FINAL.pdf</a>

Comment Letter	Comment	Recommended Language	Response
50.31	<p>by which a municipality could comply with the Amendments. It is impossible to believe that compliance with the Amendments or assessments of effectiveness can be achieved without significant disturbance of waterways and the areas adjacent thereto. Thus, it seems appropriate for the State Water Board to consult with the State and Federal Fish and Wildlife agencies to ensure that implementation of this Track will not endanger species or disrupt habitat.</p> <p>In the Supporting Draft Report, page 19, Public Process, second paragraph, last sentence: incorrect verb tense transition -7 transitioned, ' ... projected has transitioned from ...</p>		<p>Comment noted and modified in the proposed Final Staff Report.</p>
50.32	<p>In the Supporting Draft Report, page 22, Section 3.1, first paragraph: All of the items listed as those comprising 90% of trash could be efficiently controlled via a statewide redemption value sufficient enough that only accidental releases would occur and those would be mitigated by collectors. The discussion of 'Trash in California' needs to be expanded beyond what municipalities are currently doing and the impacts thereof to include Statewide efforts (e.g. redemption values), the impacts thereof and how adaptation of those efforts could</p>		<p>Comment noted. These are also the items that are found in the storm drains and enter the surface waters. While redemption value methods may provide one means of controlling these items, creating a statewide program is outside of the scope of these Trash Amendments.</p>

Comment Letter	Comment	Recommended Language	Response
	affect trash in California.		
50.33	<p>In the Supporting Draft Report, page 24; first full paragraph: The paragraph makes reference to the Land Uses bulleted prior to the paragraph and the first sentence states that the priority land uses proposed for the Trash Amendments are the 'Developed, High Intensity', 'Developed, High Intensity' is characterized by 80-100 percent impermeable surfaces. The Glossary defines 'high density residential' as &gt;10 units per acre while Sacramento County studies indicate an 80+% impermeability occurs at &gt;20 units per acre (see Table D-1a in the comment letter).</p>		<p>The Staff Report acknowledges that there is a lack of statewide consistency in land use planning and GIS data from individual municipalities, "Developed, High Intensity" was assumed to be analogous proxy to the priority land uses of the proposed Trash Amendments: high density residential, industrial, commercial, mixed urban, and public transportation stations. (See Staff Report, Section 3.2.)</p>

Comment Letter	Comment	Recommended Language	Response
50.34	<p>In the Supporting Draft Report, page 64, Definitions of Trash: The recommended Consideration (#2) is encompasses virtually everything associated with an operation but nothing one normally considers trash. The State should consider other definitions including but not limited to: "All improperly discarded materials or products, including, but not limited to, preproduction plastics, convenience food, beverage, and other product packages or containers constructed of steel, aluminum, glass, paper, plastic, and other natural and synthetic materials."</p>		<p>The definition of trash states the general types of materials that are considered trash. In the definition of trash, the clause 'from any production, manufacturing or processing operation,' seeks to differentiate between purely natural items such as leaves and pine needles (see response to comment 18.2) from other waste items. The definition does not say or imply that trash is limited to operations. Additionally, please see response to Comment 18.2.</p>
50.35	<p>In the Supporting Draft Report, page 67, Water Quality Objective: It is unclear if the proposed Water Quality Objective contained in Appendices D and E is that which was created from use of the recommended Consideration 4 or an adoption of Consideration 2. Because Appendix A, Table 14 states that 'any amount of trash' impacts the contact/noncontact water recreation beneficial uses, the proposed objective language is essentially a 'zero trash' objective. The Amendments are only attempting a treatment approach; and therefore, the objective will not be met via the Amendments.</p>		<p>Please see Response to Comment 4.1.</p>
50.36	<p>In the Supporting Draft Report, page</p>		<p>This is a typographical error in the report. The sentence should</p>



Comment Letter	Comment	Recommended Language	Response
	69, Section 4.4, Consideration 2; 'Non-permitted dischargers would either apply with prohibition of discharge or be subject to direct enforcement action'. What does it mean to 'apply with prohibition'? State needs to define what application process is necessary for currently unpermitted discharges.		read, "Non-permitted dischargers would either comply with the prohibition of discharge or be subject to direct enforcement". (See Staff Report Section 4.4, Consideration 2.)
50.37	In the Supporting Draft Report, Page 71, Section 4.5; Consideration 3: Concur with the recommendation of focusing on high trash generation rate areas but confused by the internal inconsistency of the report. As noted in Comment 33, 'developed high intensity' is 80+ percent impermeable surface (which equates to > 20 unit per acre. This Section acknowledges local differences but suggests 15-30 units per acre. However, the Appendix E Glossary defines high density as > 1 0 units per acre. There needs to be an explanation for the use of > 1 0 units per acre to define 'high density residential'.		The definition of "high density residential" was constructed based on an example of the dwelling unit standards used in local general plans by the Governor's Office of Planning and Research in its 2003 General Plan Guidelines and feedback from stakeholder meetings during the scoping process at the Focused Stakeholder Meetings. Ultimately, the definition used in the Trash Amendments is a policy decision and the State Water Board finds that 10 units per acre is a reasonable definition that balances implementation costs with environmental protection.
50.38	In the Supporting Draft Report, page 74, Section 4.6, Consideration 2 (and 4?): I am assuming that the full capture component of Consideration 4 (recommended) includes all that is discussed in Consideration 2. 'The maintenance of such systems...' Municipalities do not have the authority to access private property		See Response to Comment 42.3

Comment Letter	Comment	Recommended Language	Response
50.39	<p>and maintain devices.</p> <p>In the Supporting Draft Report, page 74, Section 4.6 Consideration 2, final paragraph: Because other depositional mechanisms exist beyond the MS4, the monitoring associated with Track 2, or casual observation, will appear to show non-compliance- which will result in litigation. Thus, while the full-capture option will cause an undue burden, it is the only option that can effectively demonstrate compliance.</p>		<p>There are multiple sources and transport mechanisms for trash to state waters. Storm water transport is a primary transport mechanism and the central focus of the Trash Amendments. For MS4 permittees, there are two compliance tracks proposed to provide flexibility to both permittees and permit writers. Both the implementation framework and minimum monitoring requirements have been crafted to be both attainable by permittees and achieve a reduction in trash in state water bodies. The revisions to the proposed final Trash Amendments also address this by providing, in the definition for full capture system equivalency, and two example approaches whereby compliance can be demonstrated, both of which can be successfully used despite potential contributions of trash from other sources. (See Ocean Plan Amendment and Part 1 ISWEBE definitions "full capture system equivalency".)</p>
50.40	<p>In the Supporting Draft Report, page 75, Section 4.6, IGP/CGP: The Trash definition discussion within the report makes clear that the State Water Board is targeting particle sizes smaller than 5mm (pre-production plastics). However, this recommendation allows a facility to demonstrate compliance by installing a full capture system -which is defined as capturing particle sizes &gt; 5mm. Recommendation: Please provide an explanation of how IGP facilities using production components that are smaller than 5mm can comply via Track 1.</p>		<p>The IGP has existing provisions consistent with Assembly Bill 258, which became effective January 1, 2008 adding Chapter 5.2 to Division 7 of the California Water Code, section 13367, entitled "Preproduction Plastic Debris Program." These existing provisions focus on BMPs in facilities in California that manufacture, handle, or transport preproduction plastics and the raw materials used to produce plastic products. The Trash Amendments will not result in modifications of provisions specific for preproduction plastics in the IGP.</p>

Comment Letter	Comment	Recommended Language	Response
50.41	<p>In the Supporting Draft Report, page 79, Section 4.9: While titled, 'Should time extensions be provided for employing regulatory source controls?' only the banning of products is discussed within the Current Conditions nor is any data provided that indicates that product banning has reduced the volume of trash in the waterways. 'Source Controls' (extended producer responsibility, redemption values, Green Chemistry, etc.) are the most efficient and effective way to reduce the amount of trash in the environment. However, the above-listed types of source controls can only be effective when implemented on (at least) a statewide basis. The State Water Board recently released for discussion the Storm Water Strategy Initiative Concept Paper which promotes the reduction of pollutants through source control. The treatment-oriented Amendments should (at least) discuss the apparent discrepancy between that which the State Water Board is promoting as its strategic imitative and that which is being proposed via the Amendments.</p>		<p>Regulatory source controls have been removed from the proposed revised amendments. See also the General Response to Comment Letter 1 and response to Comment 1.2.</p>

Comment Letter	Comment	Recommended Language	Response
50.42	<p>In the Supporting Draft Report, page 82; 5): An MS4 can control the amount of trash discharged from the MS4 (as is required by '4)'). As the report recognizes, other significant trash depositional mechanism exist over which the MS4 has no control. Data collected from the receiving water(s) will be highly variable rendering 'previous year' comparisons meaningless. Furthermore as regards the potential source(s), the MS4 can only speculate. The State needs to explain the rationale for including this monitoring requirement.</p>		<p>The amount trash reduced relative to the previous year is an appropriate requirement as it provides critical data useful for tracking and ensuring reasonable progress towards full implementation. While the amount of trash generated and deposited each year, may be variable, the overall trend, as measured by year to year changes, should generally go down. Please also see Response to Comment 4.6.</p>
50.43	<p>In the Supporting Draft Report, page 83, second paragraph, first sentence: This sentence is disingenuous as it implies that the stakeholders had an open-forum to discuss the manner of compliance and that the sentences that follow convey what the stakeholders proposed. This could not be farther from the truth. The requirements of Track 1 and Track 2 were provided along with implementation timelines. Discussion included statewide source control measures, priority land-use definitions, implementation schedules and State expectations regarding the location of full capture devices relative to the priority land-uses. Recommendation: The State Water Board needs to explain the</p>		<p>See Response to Comment 10.12.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>process through which all of the information provided (with the exception of the Track 1 and Track 2 requirements) was discarded (e.g. statewide source control) or erroneous (housing density, full capture in public easements only, etc.).</p>		
50.44	<p>In the Supporting Draft Report, page 84, fourth paragraph, first sentence: 'Litter' is inaccurate and needs to be changed to 'trash'</p>		<p>In this context of litter laws, litter is an appropriate word.</p>
50.45	<p>In the Supporting Draft Report, page 89 and following, Section 5.2: Institutional Controls are not capable of achieving 100-percent removal to &gt;5mm for the prescribed storm event; and therefore, cannot be considered a viable option for compliance.</p>		<p>Comment noted. The State Water Board recognizes that institutional controls alone may not be capable of removing all trash &gt;5 mm. Therefore, Track 2 allows for a combination of controls to achieve equivalent reductions to Track 1. (See Staff Report at 2.4.1.) It is the expectation of the State Water Board that MS4 permittees elect to install full capture systems where such installation is not cost-prohibitive. (Ocean Plan Amendment at III.L.2.a.2; Part 1 ISWEBE at IV.A.3.a.2.) Please see Response to Comment 6.3.</p>
51.1	<p>The greatest barrier that California communities will face in complying with any trash control requirements is lack of funds to pay for structural controls, maintenance of full trash capture devices, development of institutional controls, and monitoring/reporting. Proposition 218 has created a disincentive for municipalities to even attempt to raise local funds to pay for storm drainage infrastructure and maintenance, resulting in a maintenance backlog and staff</p>		<p>Please see Responses to Comments 10.4 and 29.4.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>shortages in many communities. Recommendation (1): With the adoption of statewide trash amendments, the Board should direct the Division of Financial Assistance to make grant funding available to municipalities to support compliance. Recommendation (2): The Board should direct the Office of Chief Counsel to provide local agencies with an authoritative interpretation of A.B. 2403 that clarifies a municipality's ability to raise funds to pay for trash capture infrastructure and maintenance without a Proposition 218 election. Alternatively, the Board should undertake an urgent legislative campaign to further revise the Proposition 218 Omnibus Implementation Act Government Code section 53750-53756), to extend the exemption in A.B.2403 to storm drainage infrastructure improvements and maintenance.</p>		
51.2	<p>I question the ability of Track 1 compliance to attain either the narrative objective selected by staff or a zero trash objective. As Geoff Brosseau noted in his oral comments at State Board's July 16 trash workshop, storm drains are just one of several pathways trash takes to reach our waters. Recommendation: The Board should use the same load reduction-based compliance</p>		<p>The Trash Amendments proposed a narrative water quality objective for trash, which is not the same as a zero trash numeric water quality objective. The State Water Board understands that trash enters a water body via multiple pathways, and storm water is a dominate transport pathway. Trash is a controllable priority pollutant, especially in storm water. The fifteen existing trash and debris TMDLs in the Los Angeles Region have demonstrated that full capture systems are a proven and effective best management practice to remove trash from storm water. As proposed, Track 1 does have interim milestones; however, effectiveness monitoring of</p>

Comment Letter	Comment	Recommended Language	Response
	<p>standard for Track 1 as for Track 2, and include interim milestones/reviews to determine whether Track 1 is locally effective in abating nuisance or reducing trash in receiving waters. The trash that ends up in the storm drain system is by no means all of the trash that creates a nuisance or public health hazard in our waters. Direct dumping into creeks, on-land dumping of large items, homeless encampments, windblown trash – all are sources of trash that will never see a catch basin. I fail to understand how Track 1 will actually reduce trash to non-nuisance levels. Track 1 does nothing to encourage or incentivize multi-benefit projects, which are likely to be prioritized in any future Stormwater Strategy Initiative.</p>		<p>Track 1 would not be required with the proper operation of full capture systems. Please see Responses to Comments 6.1, 6.2, 6.5, 6.6, and 6.8.</p>
51.3	<p>Because land use patterns, storm profiles, and the nature of constructed storm drainage infrastructure vary widely across California, centralized certification of trash capture devices at State Board is likely to become unworkable, causing significant additional work for staff and confusion for device vendors. Recommendation: The Board should delegate certification of full capture devices to the regions, according to statewide criteria for functionality. For these reasons I believe it is critical for vendors to be</p>		<p>Comment noted. To provide statewide consistency, the Executive Director, or designee, of the State Water Board will be the certifier of full capture systems. Additionally please see Response to Comment 10.5.</p>

Comment Letter	Comment	Recommended Language	Response
51.4	<p>able to work through the certification process with Regional Board staff, who are familiar with local precipitation patterns and the idiosyncrasies of local infrastructure. State Board could provide functional criteria and post a master list of device manufacturers and device models, noting the regions that have approved different devices.</p> <p>The Board should use the same load reduction-based compliance standard for Track 1 as for Track 2, and include interim milestones/reviews to determine whether Track 1 is locally effective in abating nuisance or reducing trash in receiving waters.</p>		<p>Track 1 establishes the performance based-standard for Track 2, as defined as full capture system equivalency, due to the demonstration of the effectiveness to reduce trash in the Los Angeles Region by local agencies complying with trash and debris TMDLs. While Track 1 has only minimum reporting requirements, there is a requirement for interim milestones to achieve final compliance. Please see Response to Comment 6.2 and 6.8.</p>
52.1	<p>With jurisdiction that allows for SED Supplemental Environmental Documents, you bypass the General Plan and Its Elements including any Framework Elements that are part of the execution, mitigation and monitoring of the planning documents along with the CEQA process.</p>		<p>CEQA provides that certain regulatory programs of state agencies may be certified by the Secretary for Natural Resources as being exempt from the requirements for preparing Environmental Impact Reports (EIR), Negative Declarations, and Initial Studies if the Secretary finds that the program meets certain criteria. A certified program remains subject to other provisions in CEQA such as the policy of avoiding significant adverse effects on the environment where feasible. The Secretary has certified the State Water Board regulatory program for adoption or approval of standards, rules, regulations, or plans to be used in the Basin/208 Planning program for the protection, maintenance, and enhancement of water quality in California as an exempt certified state regulatory program (Pub. Res. Code § 21080.5; Cal. Code Regs., tit.14, § 15251, subd. (g)).</p>
52.2	<p>Permitting, outfalls and ambient water quality criteria should be the issue. A program that operates in</p>		<p>The CWA and Porter-Cologne direct the Water Boards to regulate the discharge of pollutants into waters of the United States and waters of the State. Trash is considered a pollutant</p>



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	<p>gray areas of regulation is not acceptable. Trash management is part of the operations and maintenance of the CIRCULATION ELEMENT as it relates to transportation, required by law. The City of Los Angeles has not prepared a CIRCULATION ELEMENT, but a TRANSPORTATION ELEMENT adopted August 8, 1999, CF 97-1387 with a MOBILITY ELEMENT 2035 in the process. Pipelines are part of the CIRCULATION ELEMENT. Solid Resource Program is part of the SOLID WASTE INTEGRATED RESOURCES PLAN. Watersheds and landfills are involved, not surface waterbodies. CALRECYCLE is the agency with jurisdiction.</p>		<p>and where runoff and storm water transport trash into these waters, it is considered discharge of waste subject to Water Board authority.</p>
52.3	<p>There needs to be a dedicated funding source for the Trash Amendments.</p>		<p>Please see Response to Comment 10.4.</p>
52.4	<p>Low Impact Development does not take into consideration landslide, liquefaction, high groundwater, underground rivers or earthquake faults. Multi-benefit is not a term defined in law, to our knowledge, but just an interpretation.</p>		<p>A multi-benefit project is a project designed to achieve some or all of the benefits set forth in Section 10562, subdivision (d) of the Water Code. (See Ocean Plan Amendment and Part I ISWEBE definition for “multi-benefit project.”)</p>
52.5	<p>There are no baseline or measurement measures. You are an appointed board, not an elected board. Citizens need elected representation for taxation issues. Reconsider this draft and apply only</p>		<p>The CWA and Porter-Cologne direct the Water Boards to regulate the discharge of pollutants into waters of the United States and waters of the State. Trash is considered a pollutant and where runoff and storm water transport trash into these waters, it is considered discharge of waste subject to Water Board authority.</p>

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53.1	<p>to your jurisdiction and the law. We recommend NO PROJECT.</p> <p>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. 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.</p>		Please see Responses to Comments 4.3 and 10.5.
53.2	<p>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. Permittees should be allowed to propose the method of demonstrating performance in their plan.</p>		<p>The Trash Amendments provide Visual trash presence surveys, such as "Keep America Beautiful Visible Litter Survey" and the "SWAMP's Rapid Trash Assessment," provide a methodology for visual assessment. However, the equivalency monitoring must not be limited to just visual assessment by including a trash reduction quantification approach. Please see Responses to Comments 4.6 and 6.2.</p>
53.3	<p>MCSTOPPP objects to the requirement for stormwater permittees to conduct receiving</p>		Please see Response to Comment 4.6.

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	<p>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.</p>		
53.4	<p>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? MCSTOPPP recommends clarifying the language to the proposed Trash Amendments to address these questions.</p>		Please see Response to Comment 11.4.

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53.5	<p>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.</p>		Please see Response to Comment 12.2.

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53.6	<p>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. MCSTOPPP recommends that the State Water Board recognize the value of LID by including some LID measures as full-capture under Track 1.</p>		<p>The State Water Board agrees with this comment. The Storm Water Program at the Water Boards encourages the management of storm water as a resource. The main objective of treating storm water as a resource is to protect and restore those watershed processes that are critical to watershed health. Multi-benefit projects that infiltrate and treat storm water runoff are encouraged within MS4 Phase I and Phase II permits. Within Track 2, multi-benefit projects are a supported method of compliance to control trash. In addition to trash control, multi-benefit projects treat other storm water runoff priority pollutants. As a whole, multi-benefit projects prevent impacts from flooding, mitigate storm water pollution (such as trash), create open space, enhance fish and wildlife habitat, and improve water efficiency.</p>
53.7	<p>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</p>		<p>See Responses to Comments 4.7 and 10.4.</p>

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53.8	<p>AB 2403. MCSTOPPP recommends that the State Water Board help develop innovative ways for funding trash control programs.</p> <p>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 and to provide a comprehensive approach to keeping our watersheds clean.</p>		<p>The State Water Board appreciates the support for Track 2 and proposes to keep Track 2 to provide a comprehensive approach and flexibility to permittee to determine the most effective means of controlling trash while taking into consideration particular site conditions, types of trash, and the available resources for maintenance and operation.</p>
53.9	<p>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.</p>		<p>Please see Responses to Comments General Response of Comment Letter 1, 1.3, and 4.5. Regulatory source controls and time extensions have been removed from the proposed Final Trash Amendments. (Ocean Plan Amendment at removed III.L.5; Part I ISWEBE at removed IV.A.6.)</p>
53.10	<p>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.</p>		<p>The CEQA Guidelines describe that “tiering” refers to using the analysis of general matters contained in a broader environmental impact report (EIR) (such as one prepared for a general plan or policy statement) with later EIRs and negative declarations on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the later EIR or negative declaration solely on the issues specific to the later project (14 CCR 15152(a)). The State Water Board has done a large-scale analysis for the proposed Trash Amendments and developed detailed, site-specific analysis of implementation of full-capture devices or other means of meeting the requirements of the proposed project. It is anticipated that public agencies implementing project specific actions in compliance with the Trash Amendments will be required, in compliance with CEQA, to prepare future environmental documentation in connection with a project of a more limited geographical scale and would be</p>

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			<p>expected to tier from the State Water Board environmental analysis as appropriate. This subsequent CEQA documentation may take the form of an EIR, mitigated negative declaration, negative declaration, or possibly a statutory or categorical exemption, as appropriate.</p>
54.1	<p>Merced County supports the narrative water quality objective.</p>		<p>Comment noted. The State Water Board appreciates the support for the narrative water quality objective for trash.</p>
54.2	<p>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 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). Given the lack of justification that trash is a problem in all waters, Merced County 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</p>		<p>Please see Responses to Comments 10.7 and 44.1.</p>

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54.3	<p>objective is exceeded or the water body 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 exceed and the NPDES permit holder has been identified as the source.</p> <p>Merced County 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 \$5M. This cost is in addition to the millions of dollars in the region in unfunded mandates created by the Bacteria TMDL provisions in the recently adopted MS4 Permit (20 13-0001-DWQ). Other public entity permittees statewide would incur similar unfunded requirements set forth in the new policy, Merced County 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.</p>		Please see Responses to Comments 10.4 and 29.4.
54.4	<p>Merced County recommends adding language to the Proposed Trash Amendments indicating the permittees are in compliance with</p>		Please see Response to Comments 4.1 and 10.9.



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54.5	<p>the receiving water limitations so long as they are fully implementing Track 1 or Track 2.</p> <p>Merced County 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.</p>		<p>Please see Response to Comment 11.9. Additionally, the objective of monitoring trash to demonstrate effectiveness of the controls and compliance with full capture system equivalency. The priority land uses have been determined to be five land uses with high trash generation rates. With the “equivalent alternate land uses” provision, the Trash Amendments allow for an exchange of a priority land use for another land use with a comparative trash generation rate, which needs to be established through the reporting of quantification measures. However, the intent of monitoring and “equivalent alternate land uses” is not to select or unselect priority land uses for trash controls.</p>
54.6	<p>Merced County recommends adding language to Chapter IV.B.3.a.(1)/IV.B.3.a.(2) and Chapter III.L.2.a.(1)/Chapter III.L.2.a.(2) of the ISWEBE Plan and Ocean Plan, respectively stating that permittees must address catchment areas where the priority land uses are greater than 25% of the total catchment area.</p>		<p>Please see Response to Comment 11.4.</p>

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54.7	<p>As defined in the Proposed Trash Amendments, the predefined priority areas may not be appropriate for all jurisdictions, does not consider local knowledge of receiving water conditions and 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. Merced County supports the concept of prioritized land uses to address problem areas; however, the approach should allow for more local flexibility in this prioritization. Merced County and the other municipal separate. Recommendation: Merced County 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</p>		<p>Please see Response to Comment 10.7 and 15.2.</p>

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	<p>approved watershed plan. Through this process, monitoring data could be utilized to demonstrate that trash controls are not necessary for all priority land uses.</p>		
54.8	<p>Part (6) of the Priority Land Uses definition from the ISWEBE Plan allows permittees to issue a request to the 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. Part (6) of the Priority Land Uses definition from the Ocean Plan allows permittees to issue a request to the 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</p>		<p>Please see Response to Comment 4.4.</p>

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	<p>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.</p>		
54.9	<p>Merced County recommends adding language to the Proposed Trash Amendments requiring a permitting authority to consider revision to the final compliance date of the Proposed Trash Amendments if new priority land uses are added during the duration of the compliance period.</p>		Please see Response to Comment 10.8.
54.10	<p>Recommendation: Merced County 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.</p>		Please see Response to Comment 4.6.
54.11	<p>Merced County 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.</p>		Please see Response to Comment 16.3.

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54.12	<p>Merced County 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.</p>		Please see Response to Comment 10.10.
54.13	<p>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.</p>		Please see Response to Comment 11.6.
54.14	<p>The well-established Community Planning Groups in these rural areas have established priority issues through rigorous stakeholder planning processes. Rural towns have commercial areas that will be under the Trash Amendments. 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. Based on their local planning processes, the threat of firestorms or other local priorities may be the best use of their limited resources. Recommendation: Merced County recommends exempting rural areas</p>		Please see Responses to Comments 10.1 and 45.16.

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	from the Trash Amendments that are not directly contiguous to urbanized areas.		
55.1	Support the comments submitted by CASQA and BASMAA.		Comment noted. For Responses to BASMAA's comments please see Comments 4.1-4.7, and for Responses to CASQA's comments please see Comments 10.1-10.12.
56.1	First, the current monitoring requirements applied to jurisdictions which elect the Track 1 approach are currently not required to perform monthly or post-storm event or even annual monitoring of structural catch basements to demonstrate capture and removal rates. This is problematic on at least two fronts: (1) if MS4 permittees are not required to perform specified monitoring on the structural controls installed in catch basements, then these cities, the Regional and State Water Boards, and the citizens of these communities will not be able to determine whether the measures are actually working; (2) since "Track 2" compliance is based specifically on being able to demonstrate commensurate trash removal in a jurisdiction that "Track 1" devices could achieve, it is vital to have actual trash removal efficacy data against which to compare the Track 2 "institutional controls." The Water Boards' permitting process is generally a self-reporting and self-enforcing one, which PSSEP certainly supports. But in order to		Monitoring is a key component to assessing that the implemented trash controls are leading to the achievement of compliance with the prohibition of discharge and protecting the beneficial uses of California's surface waters. Additionally, monitoring should be utilized by permittees to provide for adaptive management decision making for implementing trash controls. With limited resources, the most effective combination of controls to control trash should be used. The Trash Amendments propose a tailored approach to provide flexibility to Water Board permit writers to design monitoring programs that reflect the compliance methods elected by permittees along with regional characteristics. Due to the cost of full capture systems, MS4 permittees complying under Track 1 would provide a report to the applicable Water Board demonstrating installation, operation, and maintenance of full capture systems on an annual basis. MS4 permittees complying under Track 2 would develop and implement annual monitoring plans to demonstrate effectiveness of trash controls and compliance with the full capture system equivalency. For statewide consistency, all Track 2 monitoring programs should be striving to answer the same fundamental questions, which may include receiving water monitoring. Please see Responses to Comments 4.6 and 6.2.

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	<p>demonstrate compliance with the underlying “zero trash” goal contained in the proposed policy, as well as maintain credibility of the program itself, it seems incongruous that Track 1 carries little or no substantive monitoring obligations to demonstrate a jurisdiction’s compliance with the standard.</p>		
56.2	<p>Second, and as applied to both Track 1 and Track 2 permittees, the current draft policy fails to include accepted, standard methodologies for measuring trash. Without having a consistent, statewide approach for measuring trash, varied and disparate trash reduction results will likely be reported from different parts of the state. It seems axiomatic that a statewide trash control policy should also have single, plenary approach to counting trash in all of the Regions. To be sure, there are a number of different methods of “counting trash” and a close review of trash surveys from around the country demonstrate that “how” one measures trash can affect the results. This dynamic was encountered by the San Francisco Regional Water Board over the past few years as it has grappled with trying to establish “baselines” against which to measure trash reductions after implementation of BMPs and the like. Fundamentally, any new pollution control standard that the</p>		Please see Response to Comment 4.6.

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	<p>State Water Board seeks to impose should also be coupled with appropriate monitoring standards and methodologies so that the Water Boards – and the public – can gauge the effectiveness of either the Track 1 or Track 2 controls.</p>		
56.3	<p>Under the current Track 1 proposal, it is unclear what standards apply to “maintain” structural controls once they’ve been installed. Indeed, the current maintenance requirement applied to Track 1 structural controls is that the permittee provide an annual report “demonstrating installation, operation, [and] maintenance.” Yet it is left to either the MS4 permittee or the applicable Water Board to determine whether the maintenance reported is adequate. Nevertheless, the trash capture device manufacturers could provide invaluable assistance in helping the State Board staff develop a set of minimum maintenance standards that should be applicable across the state.</p>		Please see Response to Comment 16.3.
56.4	<p>While PSSEP takes no position on the appropriateness or advisability of individual cities and other jurisdictions adopting product bans on items such as plastic bags or polystyrene foam food containers, we do think it is inappropriate for the State Board to provide regulatory incentives for MS4 permittees to</p>		Please see Response to Comment 4.5.



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56.5	<p>adopt these types of “institutional controls” simply as a means of avoiding the costly installation and maintenance of the so-called Track 1 structural controls. If individual cities and other MS4 permittees wish to adopt plastic bag and polystyrene foam food container bans, that is certainly their prerogative.</p> <p>PSSEP believes that the State Water Board could and should provide the leadership in getting the MS4 agencies, garbage franchise companies, and trash capture device manufacturers together to further explore whether and how this approach can be effectively used to help local governments more quickly pursue so-called “Track 1” compliance.</p>		<p>Comment noted. The State Water Board hopes that the Trash Amendments will lead to great partnerships between MS4 agencies, garbage franchise companies, and trash capture device manufacturers.</p>
57.1	<p>The Riverside County Permittees concur that Trash is a significant pollutant of concern in those surface waters where impairment by Trash have been identified. Those Trash impairments and the ongoing and effective programs being implemented to address them are discussed fully in the Draft Staff Report. But, the Proposed Trash Amendments would impose a statewide mandate that ignores local conditions and the most important identified pollutant impairments, and that requires MS4 permittees to</p>		<p>Please see Responses to Comments 10.7 and 44.1.</p>

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	<p>address Trash as a top priority pollutant category without regard to whether the surface waters are, in fact, impaired by Trash. As the Draft Staff Report reveals, there is no evidence in the record that, outside of the areas where surface waters are identified as impaired by Trash (representing only 2% of State surface waters), that warrants the additional requirements set forth in the Proposed Trash Amendments. It is notable that the Draft Staff Report does not suggest that Trash impairments in California are not adequately identified. While these conditions certainly pertain to such coastal waters, they are the exception in inland surface waters in much of southern California, especially Riverside County. In Riverside County most surface waters consist of dry washes that support terrestrial wildlife, not the aquatic habitat addressed in the Draft Staff Report. Even where water is present, wind, rather than runoff is likely to be the primary conveyance of Trash to these waters.</p>		
57.2	<p>If it is determined that statewide policy addressing Trash is needed, we encourage the State Board to set aside the proposed Trash Amendments in their entirety and re-consider this issue in light of the limited impairments described in this</p>		<p>Please see Responses to Comments 10.7 and 44.1.</p>

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	<p>letter and other comments submitted by MS4 permittees. For example, the Riverside County Permittees acknowledge that establishment of a statewide water quality objective and definition for "Trash" may have merit. We have reviewed and support comments on specific elements of the Proposed Trash Amendments submitted by Orange, San Diego, and San Bernardino Counties and encourage the State Board to consider their comments as relevant in the development of a revised approach to a statewide policy addressing Trash.</p>		
57.3	<p>The approaches in each of these Regions are tailored to address specific local Trash management needs and issues. The Draft Staff Report provides no evidence that the Proposed Trash Amendment would result in more or even equally effective management of Trash to address the impairment of surface waters than the existing Regional efforts. Even where Trash impairments do not exist, MS4 permittees have long implemented Trash source control programs, including those required by MS4 permits, to prevent impairments. These programs include municipal trash collection and disposal, street sweeping, deployment of public trash cans, public education, code enforcement, maintenance of MS4</p>		<p>Existing permits have long included these institutional measures for trash controls. However, trash in surface waters bodies continues to be a pollutant impairing beneficial uses. The State Water Board believes that trash is a controllable pollutant with an increase in trash control efforts.</p>

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57.4	<p>facilities and other measures. We believe that these programs have been instrumental in preventing broader impairment of surface waters by Trash.</p> <p>Throughout the Draft Staff Report, it is stated that the proposed Trash Amendments are needed "to provide statewide consistency". However, no evidence is provided in the Draft Staff Report or its attachments to justify why statewide consistency is needed or to justify the approach in the Proposed Trash Amendments requiring MS4 permittees to undertake additional costly and environmentally impactful measures to address Trash where impairments have not been identified.</p>		<p>There is a lack of consistency in trash requirements statewide. Additionally, there is an increase in both 303(d) listing and TMDLs for trash. To reduce number of future 303(d) listings and address impairments of beneficial uses for trash, the State Water Boards have made the Trash Amendments a priority project.</p>
57.5	<p>The Riverside County Permittees believe that, with regard to the MS4 Programs in place in the County, the Proposed Trash Amendments would in fact be counter-productive in addressing surface water quality. As noted above, the key to the Riverside County Permittees' MS4 compliance efforts has been identifying and prioritizing pollutant categories impairing surface waters for source control and management, an intensely local effort performed in collaboration with the Regional Boards that issued the MS4 permits. The Proposed Trash Amendments would require diversion of resources</p>		<p>Please see Response to Comment 11.9.</p>

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	<p>from identification and management of those priority pollutants to address Trash, which has not been identified as creating impairments in any surface water in Riverside County and is not identified as a local pollutant of concern. An important feature of the most recently adopted MS4 permits has been an increased emphasis on watershed planning initiatives, because a watershed focus has been determined to be the most effective way to address urban pollutant sources. Through the MS4 permits, the Riverside County Permittees (and MS4 permittees in other counties) have spent considerable sums and many months and sometimes years to propose and have adopted watershed management plans that set the agenda for addressing the most important pollutants and their sources and set forth the specific efforts and BMPs that will be utilized.</p>		
57.6	<p>As described during the CASQA Trash webinar on July 29, 2014, Los Angeles County has spent \$88 million implementing the types of trash exclusion devices contemplated in the proposed Trash Amendments. The Riverside County Permittees believe that our capital costs would be significant, constituting a dramatic increase in compliance costs where no impairments are identified. This is a</p>		Please see Response to Comment 26.8.

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57.7	<p>major concern of the Riverside County Permittees.</p> <p>The Riverside County Permittees have concern over the definition of "Trash" in the Proposed Trash Amendments. First, the definition should specifically exclude materials that may be conveyed as a result of flooding events, including agricultural materials, building materials, fencing, and road and highway debris. As the State Board knows, despite the current extreme drought, the State (and including Riverside County) has in the recent past experienced significant flooding events, which typically will bring with them debris flows containing a wide variety of materials, including Trash. Second, the definition includes "natural materials" as a category of Trash. Given the significant amount of plant material that naturally enters the MS4 (through wind, autumn leaf fall and other means), it would be extremely difficult to determine if the "natural materials" were of a production, manufacturing, or processing operation, as required by the definition. Third, the Draft Staff Report suggests that old tires and appliances are Trash items and there is no exclusion in the "Trash" definition for large items that enter receiving waters from sources other than the MS4. It is appropriate to exclude such large items from the</p>		Please see Responses to Comments 18.2 and 20.11.

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	<p>definition related to water quality and continue to regulate their management and disposal under existing solid waste regulations, as they are not dissolved in, or readily conveyed by, surface waters other than during flood events. The presence of tires, appliances and other large items in the receiving waters is due to illegal dumping, which is addressed by existing code enforcement activities.</p>		
58.1	<p>I support the Board's position that Full Capture Systems, along with institutional controls, will play a valuable role in assisting municipalities comply with the forthcoming trash control measures.</p>		<p>The State Water Board appreciates the support on the proposed trash controls in the Trash Amendments.</p>
58.2	<p>Our firm manufactured the initial linear radial gross solids removal device for Caltrans' field and laboratory studies and it was one of the first certified as a Full Capture system by the LARWQB in 2004. We continue to manufacture these non-proprietary screens today for Caltrans and have had our screens installed by several other municipalities in California and in other states throughout the U.S. We have also broadened the initial Caltrans design to accommodate larger flows typical for urban and commercial areas. It is noted that manufacturers of the basin inserts, continuous deflection systems, and</p>		<p>The Final Staff Report references the Linear Radial – Configuration 1 (LR1 I-10) as specified in Bishop 2004 certification letter. No change to the Staff Report is needed.</p>

Comment Letter	Comment	Recommended Language	Response
59.1	<p>netting systems have their names included in sections 5.1.2 through 5.1.4. For the benefit to municipalities seeking to locate a manufacturer of the linear radial device, I respectfully request that Roscoe Moss Company's name be included as a manufacturer in the Linear Radial Device section of the Final Draft.</p> <p>The Trash Amendments, as currently proposed, would require significant investment of capital and ongoing operational funds from local agencies to provide a much narrower benefit (i.e. removal of trash already entrained in urban runoff) than source control.</p>		<p>The measures that local agencies implement to comply with the Trash Amendments must lead to a reduction in trash. The Trash Amendments propose a dual track compliance approach to provide a wide-range of effective trash controls to be utilized by local agencies.</p>
59.2	<p>We applaud the State Water Board's apparent intention to include true source control as an integral part of the statewide storm water strategy that is currently under development. Inclusion of source control in the Trash Amendments as the primary mechanism for reducing the generation and discharge of trash is completely consistent with this strategy, and is further supported by a number policy and economic considerations.</p>		<p>The State Water Board appreciates the support for the Storm Water Strategic Initiative. Additionally, regulatory source controls have been omitted from the final proposed Trash Amendments, and please see Response to General Response to Comment Letter 1.</p>



Comment Letter	Comment	Recommended Language	Response
59.3	The use of an asterisk throughout the document is obviously to reference a definition contained within the Glossary; but, this concept is not stated and there is no corresponding asterisk at the glossary.		The asterisk is used to designate a term as a defined term in the California Ocean Plan. All capital letters is used to designate a term as a defined term in the forthcoming ISWEBE Plan.
59.4	As was discussed during the 16 July 2014 workshop, there is no standardized path to compliance associated with Track 2. In addition, it does not appear that it is possible to achieve compliance via Track 2. If Track 1 is the only viable option for compliance, it becomes an unfunded mandate.		Please see Responses to Comments 6.2, 10.4, 16.3, and 29.4.
59.5	Please note that there are numerical sequencing and referencing discrepancies throughout Appendix E that need to be corrected and are not specifically' addressed below (e.g. Page E-1; "Draft text of ... Chapter III- Water. ..' v. 'Draft text of ... Chapter Implementation...').		Comment noted. These have been corrected in the proposed Final Staff Report.
59.6	The term "adjacent" is vague in the Water Quality Objective. Recommend defining 'adjacent areas' as the high-water line.		Please see Response to Comment 50.9.
59.7	The MS4 entity does not have the authority to install, operate, and maintain full capture systems on private property. Specific "within the MS4 system" instead of "for all storm drains".		Please see Responses to Comments 11.4 and 25.1.

Comment Letter	Comment	Recommended Language	Response
59.8	<p>Track 2 compliance cannot obtain the objective in the Amendments include no method by which Track 1 equivalence can be demonstrated. In absence of a compliance methodology, 'equivalence' becomes subjective and will need to be defined by the courts.</p>		Please see Responses to Comments 4.1, 4.6, 6.2, and 16.3.
59.9	<p>1) Assuming this Section is actually referencing Chapter IV. B.3.a(1) and Chapter IV.B.3.a(2): A permittee may have selected Track 1 and the land use or location (while within the municipality's regulatory jurisdiction) may not drain through the MS4 (e.g. a nonpoint source park or facility that private drains directly into surface water); and, the MS4 does not have the legal right to install, operate or maintain devices on private property.</p> <p>2) 'substantial' is vague and open to subjective interpretation. Suggest the use 'comparative trash generation rate' as discussed in the Glossary.</p>		Please see Responses to Comments 11.4 and 25.1. The State Water Board does not agree that changing 'substantial' is necessary.
59.10	<p>The State and Federal governments own properties that these proposed Trash Amendments define as priority land uses. However, with the exception of properties controlled by The Department, there is no mechanism for compliance or recognition that the MS4 into which those locations may discharge has no authority by which it can obtain compliance.</p>		Comment noted. If these state and federal properties have a NPDES permit, then they will be subject to the Trash Amendments.

Comment Letter	Comment	Recommended Language	Response
59.11	Have interim milestones, but not specific.		Please see Response to Comment 38.6.
59.12	As was suggested during the Sacramento Stakeholder meeting (4/8/13), we would encourage the State to partner with a broad stakeholder group to evaluate/implement source control prior to implementing treatment via the Trash Amendments. If unwilling to be a partner, we would encourage the State to consider developing/adding language that recognizes (via time extensions and/or milestone adjustments) local jurisdictions that can demonstrate more global/statewide source removal efforts.		Comment noted. With the Trash Amendments, the State Water Board supports treatment and institutional controls and multi-benefit projects that control trash and achieve compliance with the prohibition of discharge for trash.
59.13	The lack of monitoring for Track 1 is inconsistent statewide application of the State's intent. It is unclear whether Track 2 full capture require monitoring.		Please see Response to Comment 56.1.
59.14	Trash assessments in receiving waters will create highly variable data that precludes yearly comparisons and an evaluation of the causal deposition mechanism will be purely speculative.		Comment noted. The proposed final Trash Amendments removed the requirement for receiving water monitoring. Monitoring must demonstrate the effectiveness of controls and compliance with full capture system equivalency. However, quantifying the amount of the trash in the receiving water is an important component to measuring success of control to improve the condition of the receiving water body over time. Please see Response to Comment 6.2.

Comment Letter	Comment	Recommended Language	Response
59.15	As a magnitude of effort consideration, the unincorporated area of Sacramento County has nearly 50,000 drop inlets in areas with priority uses*. State should consider deleting, 'Prior to installation' from the definition; or, provide pre-certification of types of devices/features for specified ranges of flow and/or allow certification (sign/stamp) by a Civil Engineer licensed in the State of California.		The State Water Board appreciates the complexity of tasks that permittees must undertake to install treatment controls. The intention of the certification process is to ensure that the general design of a full capture system effectively captures trash 5 mm or greater during the one-year one-hour storm event. The State Water Board intends for resources to be efficiently directed towards effective treatment controls that capture and remove trash. The State Water Board disagrees that "prior to installation" would penalize a community, as resources should be directed to treatment controls proven to be effective at capturing trash. Additionally, it is not the State Water Board's expectation that each device that is to be inserted will need to be certified. This would be highly infeasible. The certification process is for the general design of a full capture system, not for each individual system in a drop inlet, unless each system is entirely unique. Certified full capture systems are specified in Section 2.8 and Section 5 of the proposed Final Staff Report.
59.16	The associated staff report discusses prioritizing implementation by high trash generation rates and associates those rates to land-uses. With regards to residential-use, > 80-percent impervious and 15-30 units per acre is used. The State needs either to continue the use of > 20 units per acre or explain the transformation from approximately 20-units per acre to >10 units per acre.		Comment noted. Please see Responses to Comments 26.3 and 44.19.
59.17	The Equivalent Alternate land use sentence is awkward and unnecessary. An MS4 does not need permission from the permitting authority to exceed a requirement of		The definition of 'equivalent alternate land use' has been revised for clarity. (See Ocean Plan Amendment and Part I ISWEBE definition for "equivalent alternate land uses.")

Comment Letter	Comment	Recommended Language	Response
59.18	<p>its permit.</p> <p>This description of tasks necessary to establish a comparative trash generation rate creates a framework of comparative activities and removes subjectivity but should not be constrained to the permitting authority. The State should define comparative trash generation rate in the Glossary and use it to replace ambiguous terms like 'substantial'.</p>		<p>Please see Response to Comments 6.6 and 12.2. Additionally, the State Water Board disagrees that "comparative" is ambiguous and do not consider "substantial" is a necessary change.</p>
59.19	<p>While elegant in its brevity, the current definition of TRASH could be legally construed to include virtually nothing; or, nearly every solid from plastic to sand. Ex: One could argue that a tossed burger wrapper is not 'Trash' in that it was not improperly discarded from a production, manufacturing or processing operation. In addition, the use of the word 'discarded' (to throw away) allows accidental releases or unrecoverable production-related materials (discharged during an accident) to be exempted. EX: The 'trash' ripped from Board Member Moore by the wind would not have been 'trash' because he did not 'discard' it - as much as it was taken from him.</p>		<p>The definition of trash states the general type of materials that are considered trash. Additionally, please see Response to Comments 18.1 and 50.34.</p>
60.1	<p>A Statewide approach is necessary when considering regulatory source control measures.</p>		<p>Comment noted. The Trash Amendments propose to provide a statewide framework and consistency to reduce trash in California's surface waters.</p>

Comment Letter	Comment	Recommended Language	Response
60.2	<p>State-level direction on standardizing trash quantification is also needed. Trash monitoring data is being used in a number of NPDES permits. However, there are currently no standards for measuring and counting trash, which leads to difficulty in interpreting trash data in general. The District recommends standardizing trash quantification at the state level to create consistency throughout the state. The District also agrees with CASQA's comment that the demonstration of effectiveness should not be limited to monitoring Best Management Practices (BMPs) performance. Permittees should be allowed to propose the method by which they demonstrate performance in their plan, such as through rigorous visual assessments.</p>		Please see Response to Comment 4.6.
60.3	<p>With this in mind, we support jurisdictional accountability throughout the watershed and we encourage the State Water Board and the applicable permitting authorities to incorporate these concepts throughout the proposed Trash Amendments and correlated permits. The District requests that the State Water Board include language in the Trash Amendments that makes it clear that a permittee is not liable for any discharges from MS4 facilities that the permittee does</p>		A permittee is responsible for the discharges covered under the MS4 permit.

Comment Letter	Comment	Recommended Language	Response
60.4	<p>not own or operate.</p> <p>In a spirit of transparency, the District respectfully requests that the State Water Board extend the comment period by a minimum of 30 days and provide an additional workshop(s) in the Southern California area prior to adopting the Trash Amendments. Given the breadth of comments and concerns expressed by stakeholders at the July 16, 2014 workshop, the District requests that, when the revised draft of the Trash Amendments is released for public review, the entire document, not just the changed text, be open for further comment to allow stakeholders to consider the revised proposal in its entirety.</p>		<p>The Trash Amendments have been in development since 2010 with extensive stakeholders input from the multi-year efforts of the Public Advisory Group and the Focused Stakeholder Meetings in the spring of 2013. The State Water Board has considered the comments from all stakeholders at the public workshop on July 16, 2014, public hearing on August 5, 2014, and the 76 comment letters. Additionally, the State Water Board has accommodated one on one stakeholder requested meetings to discuss concerns and questions on the Trash Amendments. The proposed Final Staff Report and proposed final Trash Amendments would be only recirculated in the event there are new significant environmental impacts. Since there are no new significant environmental impacts, the State Water Board is not providing a written comment period for the revisions made to the proposed Final Trash Amendments and proposed Final Staff Report. The public may provide oral comments at the meeting at which the State Water board will consider adoption the proposed final Trash Amendments and approving the SED. (See Final Staff Report Section 2.14.)</p>
60.5	<p>The State Water Board should include the requirement for a baseline investigation that would assess and identify localized areas of high trash generation within their jurisdictions as a first step in the proposed regulations. The Trash Amendments have identified priority land uses that could be used to guide permittees. However, without a baseline that is specific to a local region/jurisdiction, it is unclear whether those land uses actually generate trash. The amendment should allow permittees the flexibility to customize their high priority areas</p>		<p>Please see Response to Comment 6.2.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>based upon knowledge of local sources. This would allow limited resources to more accurately target local priority efforts. Additional time in the compliance schedule, to allow for baseline investigations, is also warranted.</p>		
60.6	<p>Providing alternative compliance tracks allows permittees the flexibility to select the appropriate approach. The District supports the State Water Board's efforts to incorporate flexibility in the Trash Amendments by including compliance track options. Track 2 incorporates a combination of strategies to address trash through implementing source control and other measures, in addition to installing full-capture systems where appropriate. This approach supports the watershed approach in the San Diego Regional Board's 2013 Municipal MS4 Permit. In addition, the installation of a network of full-capture systems through Track 1 may not be technically feasible for all permittees due to issues such as the physical constraints of the MS4 system that may limit or prohibit the ability to install these systems and could generate secondary issues, such as flooding. However, the District requests that the State Water Board provide clarification on how technical feasibility (or infeasibility) may be defined.</p>		Please see Response to Comment 6.3.



Comment Letter	Comment	Recommended Language	Response
60.7	<p>Compliance Expectations for Track 2. Although the District supports providing the compliance track options, there is concern that the dual alternative compliance track approach may lead to disjointed localized efforts. Permittees electing to implement Track 1 would be in compliance with implementation requirements if a network of full-capture systems were installed in the storm drains of priority land uses. However, the Trash Amendments do not identify whether these Track 1 permittees would be in violation of the trash prohibition of discharge if trash was found in their jurisdictions despite full implementation, or what may happen if this trash ends up in another downstream permittee's jurisdiction. Permittees need to know the compliance expectations prior to making a decision on a track option. To this end, clarification is requested on what constitutes a violation and how violations will be handled.</p>		Please see Response to Comment 16.3.
60.8	<p>Additionally, the Trash Amendments require that Track 2 achieve the same performance as Track 1; however, no guidance is provided on what will be considered an acceptable implementation plan, or how equivalency should be demonstrated. At present, there is no information on what efforts will be</p>		Please see Response to Comment 6.2.

Comment Letter	Comment	Recommended Language	Response
	<p>considered "equivalent" to full trash capture-. Compliance with Track 1 involves a quantitative assessment (i.e., number of full-capture systems), while compliance with Track 2 involves a qualitative assessment (i.e., effectiveness of control measures). Given the disparate nature of the compliance analysis for each track, the District is concerned that there isn't a standard for determining the equivalence of the two tracks and that potential liabilities may be assigned inconsistently depending on the track chosen. Permittees incur financial and compliance risks in choosing a track which has no guidelines for determining compliance, or by placing themselves in a situation where the guidelines would be subject to ongoing interpretation. We strongly recommend that clear guidance for the implementation plans and standards of equivalency be established prior to -- or with -- the adoption of the Trash Amendments. Clearly, establishing these expectations is essential to inform a permittee's choice of track.</p>		
60.9	<p>Monitoring requirements for both compliance tracks should be revised. Permittees should be allowed to propose the method for demonstrating performance in their plans. However, the District recommends</p>		Please see Response to Comment 4.6.

Comment Letter	Comment	Recommended Language	Response
	<p>the inclusion of general monitoring and reporting requirements in the Trash Amendments that would be uniform, regardless of the track selected. Elements of monitoring for both tracks should be the ability to demonstrate the effectiveness of the overall program and ascertain variations in the amount of trash discharged from the MS4, over time. In addition, receiving water monitoring should not be required since other sources contribute trash. While stormwater permittees may elect to conduct receiving water monitoring to demonstrate performance, it should not be mandated.</p>		
60.10	<p>The Trash Amendments, as currently drafted, would also require each permittee to develop and implement separate monitoring plans. The District recommends including language to provide permittees the flexibility to be able to collaborate with other agencies to develop watershed monitoring plans that could include both jurisdictional and watershed elements. This approach supports the San Diego Regional Board's watershed approach for the 2013 Municipal MS4 Permit, as well as current efforts by permittees to develop monitoring and assessment plans for watershed management areas in the region.</p>		<p>The Trash Amendments do not preclude collaboration of permittees within the same watershed. The Trash Amendments set the minimum framework for monitoring and reporting for Track 1 and Track 2 and crafted to provide flexibility to both permittees and permitting authority. The specifics of monitoring are at the discretion of the permitting authority as long as monitoring under Track 2 demonstrates the effectiveness of controls and compliance with the performance standard. This framework supports the San Diego's Water Board's watershed approach to include jurisdictional and watershed elements. (See Ocean Plan Amendments III.L.2.a.2 and Part I ISWEBE IV.A.3.a.2.)</p>

Comment Letter	Comment	Recommended Language	Response
60.11	<p>The Trash Amendments should limit the liability of MS4 permittees for trash originating from other regulated and non-regulated sources. The District supports CASQA's recommendation that the State Water Board require other regulated entities to implement the proposed Trash Amendments through a regulatory process external to the MS4 permits; and that the State Water Board establish non-point sources programs to control non-regulated sources of trash. The State Water Board should also include provisions to require implementation of the Trash Amendments, not only through inclusion in an MS4 Permit, but through other NPDES Permits, Waste Discharge Requirements, and Waiver Provisions.</p>		<p>Although the implementation provisions for compliance with the prohibition of discharge focus on trash discharge via storm water, it is well recognized that trash is transported to surface waters via both point and non-point sources. The Trash Amendments propose to implement the water quality objective for trash through a conditional prohibition of discharge of trash directly into waters of the state or where trash may ultimately be deposited into waters of the state. The prohibition of discharge applies to both permitted and non-permitted dischargers. Permitted dischargers would comply with the prohibition as outlined with the plan of implementation when such implementation plan is incorporated into the dischargers' NPDES permits. Dischargers with non-NPDES WDRs and waivers of WDRs that contain specific requirements for the control of trash shall be determined to be in compliance with the prohibition of discharge if the dischargers are in full compliance with such requirements. Under the original language, a discharger subject to an existing non-NPDES WDR or waiver of WDR could have been potentially in compliance with the requirements of the WDR, or Waiver of WDR, yet simultaneously out of compliance with prohibition of discharge included in the proposed Trash Amendments. Non-permitted dischargers must comply with the prohibition of discharge or be subject to direct enforcement action. Please see Response to Comment 6.5. (See Ocean Plan Amendment III.I.6 and Part I ISWEBE IV.A.2.)</p>
60.12	<p>Clarification on the definition of trash. The District requests that the State Water Board clarify the definition of "trash" under the Trash Amendments. The current definition in the Trash Amendments is somewhat vague, specifically regarding what is not included (such as green waste). This may lead to a broad interpretation across the state</p>		<p>Please see Responses to Comments 3.2 and 18.2. Additionally, please see Section 4 Issue 1 in the Final Staff Report.</p>

Comment Letter	Comment	Recommended Language	Response
61.1	<p>by local regional boards. A clear definition of trash could provide consistency for permittees throughout the state.</p> <p>Rather than imposing new burdens on public transportation agencies that are not justified by the record, we ask the State Board to allow time for its own General Permit program to be implemented by BART and other public transportation operators in the Non-Traditional Permittee category, before concluding that additional regulation is necessary.</p>		<p>Trash is a prevalent and controllable priority pollutant across California. One of the main transport mechanisms of trash to receiving waters is through the storm water systems. The Trash Amendments focus on trash discharge reduction by requiring that NPDES storm water permits (specifically MS4 Phase I and Phase II Permits, Caltrans Permit, CGP, and IGP) contain provisions that require permittees to comply with the prohibition of discharge. These provisions focus on trash control in the locations with high trash generation rates in order to maximize the value of limited resources spent on addressing the discharge of trash into state waters. As a Non-Traditional Phase II MS4 permittee, the appropriate Water Board may require the Bay Area Rapid Transit (BART) and other similar Non-Traditional Small MS4 permittees to adopt Track 1 or Track 2 control measures over such land uses or locations. (See Final Staff Report Section 2.4.)</p>
61.2	<p>BART respectfully requests clarification from the State Board as to the scope of the term public transportation stations. To the extent that self-contained heavy rail transit stations are considered "public transportation stations" as defined, BART objects on the grounds that there is no evidence in the record to support the regulation of such stations as priority land uses generating significant amounts of trash. The State Board also indicates that the Proposed Trash Amendments will apply to "MS4 Phase I and Phase II NPDES</p>		<p>BART is a Non-Traditional Small MS4s that lacks jurisdictional authority over priority land uses. After reaching that determination in consultation with the applicable MS4, the appropriate Water Board may require the BART and other similar Non-Traditional Small MS4 permittees to adopt Track 1 or Track 2 control measures over such land uses or locations. (See Final Staff Report Section 2.4.)</p>

Comment Letter	Comment	Recommended Language	Response
	<p>permittees with regulatory authority over land uses." Although BART is a Non-Traditional Phase II Permittee, it does not have regulatory authority over land uses. The Draft Staff Report focuses on municipalities, suggesting that Proposed Trash Amendments are intended to apply to municipal operators of bus services. We request that the State Board clarify whether the Proposed Trash Amendments to apply to rail transit agencies operating self-contained station facilities, such as BART.</p>		
61.3	<p>The inclusion of public transportation stations in the scope of priority land uses is not supported by anything in these studies. The Draft Staff Report indicates that the purpose of identifying priority land uses is to "allow MS4s to allocate trash-control resources to the developed areas that generate the highest sources of trash" but provides no evidence that public transportation stations generate trash at rates comparable to residential, commercial or industrial land uses. In the absence of such evidence, there is no support in the record for a determination that public transportation stations should be included among trash priority land uses. Moreover, while there may be significant uncontrolled trash generation at other types of transportation facilities, BART</p>		<p>The intention of public transportation stations is bus stations and stops. These areas do generate trash, especially food container products and cigarettes. It is commendable that BART has existing institutional controls for trash. As BART is a non-traditional MS4 permittee, the permitting authority has the authority to determine and require additional trash control measure for BART to address the areas and locations that do have the potential to cause or contribute to impairments of beneficial uses for trash.</p>

Comment Letter	Comment	Recommended Language	Response
61.4	<p>already has institutional controls in place which distinguish it from uncontrolled facilities.</p> <p>The studies cited by the Draft Staff Report do not support the inclusion of self-contained rail stations among priority land uses for purposes of the Proposed Trash Amendments.</p>		Please see Response to Comment 61.8.
61.5	<p>In light of BART's existing, effective trash control practices, as well as the lack of support in the cited studies, there is no basis in the record for including BART stations in the priority land use category as posing a risk of trash impairment to water bodies.</p>		Please see Response to Comment 10.7.
61.6	<p>BART recommends that the State Board establish a set of presumptions and standards such that, if specified trash controls are implemented pursuant to Track 2, the State Board and Regional Water Quality Control Boards would conclude that the results are equivalent to Track 1.</p>		Please see Response to Comment 16.3.
61.7	<p>The Proposed Trash Amendments require permittees to conduct monitoring and submit reports that indicate the effectiveness of the controls. However, the Proposed Trash Amendments and Draft Staff Report provide no guidance as to how such monitoring and reporting should be conducted, including how</p>		Please see Response to Comment 4.6.

Comment Letter	Comment	Recommended Language	Response
	<p>Track 2 permittees would determine the efficacy of their controls and any associated decrease in discharged trash. The State Board indicates that the required monitoring and reporting should be tailored to the type of compliance. BART agrees, and suggests that the State Board provide more specificity as to how Track 2 permittees should evaluate effectiveness. In particular, permittees choosing Track 2, which is inherently qualitative, should not be required to quantify the amount of trash discharged.</p>		
61.8	<p>While an SED may be prepared in lieu of a CEQA document under the State Board's certified regulatory program, the State Board remains bound by the broad policy goals and substantive standards of CEQA. The SED's primary purpose is to serve as an informational document, but the State Board has insufficiently explained why it relies so heavily on Southern California specific analyses for statewide impacts. In addition, it is not clear that incorporation by reference is appropriate here. The CEQA Guidelines indicate that incorporation by reference should be used for general background information, not for actual impacts analysis.</p>		<p>The only statewide impact of the proposed Trash Amendments is the reduction of trash in the state's water bodies. The localized potential impacts of implementation projects will be similar in nature and have been discussed in the draft Substitute Environmental Document (draft SED). The only section that incorporates the Los Angeles Water Board Environmental Impact Report by reference is the air quality analysis, and the draft SED explains that since the South Coast Air Basin has poorer air quality than other areas of the state, using the Southern California analysis would encompass the maximum possible impact of the proposed project. Although Section 15150(d) states that incorporation by reference is "most appropriate" for providing general background, this language is not limiting and Section 15150(e) specifically cites examples of materials to be incorporated by reference that specifically includes environmental setting information and specific effects analysis.</p>
62.1	<p>Entities with solid waste franchise authority are required to comply at</p>		<p>Comment noted. Municipalities should continue to create partnerships with solid waste franchise authority to reduce</p>



Comment Letter	Comment	Recommended Language	Response
	no cost to the permittee.		trash.
62.2	Permittee is not responsible for trash generated by State and/or federal agencies.		Comment noted. State and federal agencies would be required to comply through their respective MS4 permit.
62.3	Extend the time frame to select a track from 3 months to 6 months.		Within eighteen month of the effective date of the Trash Amendments, the permitting authority shall either modify, re-issue, or adopt the applicable MS4 permit to add the Trash Provisions or issue an order pursuant to Water Code section 13267 or 13383. The permittee would have three months to provide written notice of the selection of the Track 1 or Track 2. If Track 2 is selected, then the permittee must also submit an implementation plan within eighteen months of the effective date of the implementing permit or the receipt of the order (whichever date is earlier). (Ocean Plan Amendment III.L.4.a.1; Part I ISWEBE IV.A.5.a.1.) The three month time frame to select a track was provided in order to allow for the maximum amount of time for implementation plan development. If six months were to be granted, then that would reduce the period for implementation plan development to 15 months. The State Water Boards do not think this change is necessary as the permittees have sufficient time to select a track and time for the implementation plan should the maximum amount of time.
62.4	The "one size fits all" statewide approach may not make sense with areas of low level density and development. For low development areas, a threshold (such as >25% of the catchment area has a priority land use) makes sense.		Please see Response to Comment 11.4 and 15.2.
63.1	SCVURPPP member agencies have concerns with the amendments as drafted because they would potentially require municipalities in		The Trash Amendments were crafted with the intention to be compatible with the efforts for trash control under the MRP and to not redirect limited resources for redundant efforts. The State Water Board worked with San Francisco Bay Water

Comment Letter	Comment	Recommended Language	Response
	<p>the Bay Area to inefficiently redirect limited public resources away from activities currently aligned with trash reduction provisions in the MRP. For that reason, we support the recommendations proposed in the comment letter submitted by the Bay Area Stormwater Agencies Association (BASMAA) regarding the proposed amendments.</p>		<p>Board staff to craft and ensure that Track 2 language would be compatible with existing and future San Francisco Bay Municipal Regional Stormwater Permit (MRP) conditions. As the trash control provisions exist in the MRP, they represent an example of a Track 2 approach that the State Water Board intends to see incorporated into other MS4 Phase I permits across California, specifically with the combination of treatment and institutional controls and mapping for trash generation areas. Additionally, please see Response to Comment 4.2 and the rest of the Response to Comment Letter 4.</p>
63.2	<p>Provide consistency between the proposed narrative Water Quality Objective and trash discharge prohibitions by revising the prohibitions to include language that qualify that the trash discharges being prohibited and controlled by the specified implementation requirements, is the trash “in amounts that cause impairment of beneficial uses or conditions of nuisance in receiving waters”</p>		<p>Please see Response to Comments 4.1 and 10.9.</p>
63.3	<p>Provide an alternative (i.e., Track 3) to allow for compliance to be achieved via continued implementation the trash-specific provisions in the MRP.</p>		<p>Please see Response to Comment 4.2.</p>
63.4	<p>Effectively provide “certification” for all devices previously “approved” by SF Bay Regional Board staff as full capture systems that are installed or in the process of being installed in the Bay Area.</p>		<p>Please see Response to Comment 4.3.</p>

Comment Letter	Comment	Recommended Language	Response
64.1	<p>We urge the Board to determine that the San Francisco Bay Region Municipal Regional Stormwater NPDES Permit (MRP) currently meets or exceeds State Board requirements with respect to delineation of high trash generation areas, annual reporting requirements, and the trash load reduction timeline. We ask that you include language in the amendments formalizing this determination and clarifying Regional Board authority to implement stronger restrictions and timeliness.</p>		<p>Please see Response to Comment 7.3.</p>
64.2	<p>We urge the State Board to confirm the Regional Board's authority for implementing the load reduction timeline detailed in the MRP. Permittees have submitted their Long-Term Trash Load Reduction Plans, which detail strategies for achieving zero trash loading by 2022. Regional stakeholders are committed to helping permittees reach this goal and create cleaner, healthier waterways for Bay Area residents and wildlife.</p>	<p>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</p>	<p>The State Water Board supports the San Francisco Bay Water Board's authority to implement trash load reductions as detailed in the MRP and sees those requirements substantially equivalent with Track 2. Additionally the East Contra Coast Municipal Storm Water Permit issued by the Central Valley Water Board has similar requirements to the MRP, which are substantially equivalent to Track 2. To reduce redundancy, the proposed final Trash Amendments were modified to clarify this intention in the time schedule section. MRP and East Contra Costa Municipal Storm Water permittees are exempt from electing Track 1 or Track 2 as the permit requires trash controls that are substantially equivalent to Track 2. In addition, the submission of an implementation plan does not apply to the above permittees if the respective regional water board determines that the submitted implementation plan is equivalent to the implementation plan required by the Trash Amendments. (Ocean Plan Amendment and Part I ISWEBE Footnote 2; Ocean Plan Amendment III.L.4.a.1; Part I ISWEBE IV.A.5.a.1.)</p> <p>Additionally, the Trash Amendments specify that full compliance must occur within ten years of the effective date of</p>

Comment Letter	Comment	Recommended Language	Response
65.1	<p>We object to any such time extensions on the ground that regulatory sources controls are not effective to reduce litter in the ocean, inland surface waters, enclosed bays, or estuaries (collectively "water bodies"). Source controls such as plastic bag bans or fees are an ineffective method of litter control, and are merely symbolic. We agree with staff that product bans and product fees do nothing more than "remove a specific type of item from the waste stream." We do not agree and we object to the assertion that granting time extensions "would not have an adverse effect on the environment."</p>		<p>the first implementing permit, and the final compliance date may not be later than fifteen years from the effective date of the Trash Amendments. (Ocean Plan Amendment III.L.4.a.2-5; Part I ISWEBE IV.A.5.a.2-5.) The compliance deadlines in the MRP and East Contra Costa Municipal Storm Water Permit are 2022 and 2023, respectively. As those compliance deadlines would occur within fifteen years of the effective date of the Trash Amendments and the MRP and East Contra Costa Municipal Storm Water Permits are substantially equivalent to Track 2, the MRP and East Contra Costa Municipal Storm Water permittees are expected to achieve their final compliance deadlines without the need for additional time to compliance. The pertinent permitting authority may establish an earlier full compliance deadline than that specified in Track 2 time schedule (See Ocean Plan Amendment and Part I ISWEBE Footnote 2.)</p>
65.2	<p>Based on CEQA Guidelines § 15250, we object to the proposed</p>		<p>Regulatory source controls have been omitted from the final proposed Trash Amendments. Please see Responses to the General Response to Comment Letter 1 and to Comments 1.3 and 4.5. Commenter's concerns relate to regulatory source controls and time extensions which have been removed from the proposed Final Trash Amendments. (Ocean Plan Amendment at removed III.L.5; Part I ISWEBE at removed IV.A.6) Based on the revisions and discussions in the referenced responses, commenter's underlying arguments are not applicable to the Trash Amendments which will be considered for adoption by the Board and they will not be responded to in detail.</p>
			<p>Regulatory source controls have been omitted from the final proposed Trash Amendments. Please see the General</p>

Comment Letter	Comment	Recommended Language	Response
	<p>Trash Amendment as deferral of MS4 compliance would have a significant negative impact on the environment. Further such adverse effects would not be offset by any significant environmental benefits from a plastic bag ban or fee. CEQA Guidelines § 15250 states: "A certified program remains subject to other provisions in CEQA such as the policy of avoiding significant adverse effects on the environment where feasible." (Note: The CEQA Guidelines are binding.) Clearly, avoiding the significant negative environmental impact of time extensions for MS4 compliance is feasible simply by not permitting such extensions.</p>		<p>Response to Comment Letter 1 with regard to a plastic bag ban and regulatory source controls.</p> <p>Regarding the environmental impacts of granting a time extension, CEQA requires an analysis of potential environmental impacts based on the baseline conditions at the time the environmental analysis begins. Since the impacts of trash on the environment are currently occurring and are ongoing, granting a time extension does not change this baseline condition and; therefore, does not cause any new impacts on the environment. That being said, the time extension provisions have been removed from the proposed final Trash Amendments.</p>
65.3	<p>We object on the ground that the Staff Report contains no analysis whatsoever of the negative environmental impacts of the proposed time extensions. The Board cannot make an informed decision without such an analysis. At the very least, an SED or EIR must show a significant benefit from source controls such as a plastic bag ban or fee that would offset the significant negative impact of time extensions. Such a showing must be based on substantial evidence. (CEQA Guidelines § 15384.)</p>		<p>Please see Responses to the General Response to Comment Letter 1 and to Comments 1.3 and 65.2. Commenter's concerns relate to regulatory source controls and time extensions which have been removed from the proposed Final Trash Amendments. (Ocean Plan Amendment at removed III.L.5; Part I ISWEBE at removed IV.A.6) Based on the revisions and discussions in the referenced responses, commenter's underlying arguments are not applicable to the Trash Amendments which will be considered for adoption by the Board and they will not be responded to in detail.</p>

Comment Letter	Comment	Recommended Language	Response
66.1	<p>Solano County would like to follow the Track 1, with a 100% trash capture on all storm drains. However, without storm drains to service, the County could be forced into Track 2. The way the policy is written, Solano County would likely already be in compliance, as we have full capture system for storm drains (or, because there are no storm drains, there are no capture systems to put in place). However, at the workshop a representative from the State Board stated that this may instead force Solano County to follow Track 2, which appears to be an unreasonable approach. In the Draft Policy it states: "Under the proposed Trash Amendments, MS4 Phase I and Phase II NPDES permittees with regulatory authority over land uses can comply with the prohibition of discharge of trash under a dual alternative compliance approach or 'Tracks'" (p. 12). This states that Phase II MS4s have the option of compliance with Track 1 or Track 2, and Solano County should be no exception, even though the policies appear to be misapplied. Due to vagueness in the definition of "catch basins" in the 2012 Phase II MS4 Permit, the County has been working with San Francisco and Central Valley Regional Water Quality Control Boards to define "catch basins" to direct monitoring</p>		<p>The State Water Board appreciates the challenges for the definition of "catch basins". The State Water Board is not going to make an exception for Solano County in the proposed Trash Amendments. However, in the next Phase II MS4 Permit that incorporated the Trash Amendments, the State Water Board will work with both the San Francisco Bay and Central Valley Water Boards to craft implementation provisions that address the Solano County specifics. Most likely, since the Trash Amendments build on Track 1 setting the performance standard, then this standard will be very minimal for small MS4s with no curb and gutter MS4 system.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>and compliance efforts for the MS4 Permit. Both Regional Water Boards have verbally or in writing agreed to define "catch basins" within Solano County as the spots in the County's MS4 system where open roadside ditches drop into streams, rivers, and receiving waters. Monitoring and testing will occur at these locations within the County.</p> <p>Recommendation: The County recommends that compliance with the final Trash Policy be kept consistent with Regional Boards' determination of "catch basins" within Solano County. The County should be able to direct full trash capture to the identified "catch basins" to obtain Track 1 compliance. This necessitates regional consideration and variability within the Draft Policy to identify MS4s that do not fit into the Phase I large MS4 storm and gutter system. Smaller MS4s with no curb and gutter system should be able to comply with Track 1, full trash capture, without undue difficulty of compliance.</p>		
66.2	<p>The State Water Board will be taking responsibility for the certification process for full capture systems going forward. Solano County asks that certification allows for reasonable methods of compliance for Solano County. For example, the County may not be able to use</p>		<p>The State Water Board will be taking the responsibility for the certification process of full capture systems, which is focused on the general design criteria and not each individual installation. The State Water Board will take into consideration the certification process from Solano County and other small MS4s with no curb and gutter MS4 system. (See Ocean Plan Amendment and Part I ISWEBE definition for "full capture system.")</p>

Comment Letter	Comment	Recommended Language	Response
	<p>established catch basin and/or trash net systems for compliance, as the County cannot tie into a curb/gutter/drain system. However in the interest of full capture, the County would be able to establish trash capture devices at the previously mentioned "catch basins" in Solano County, or where the storm ditch system goes into a body of water. Recommendation: The County recommends that the State Water Board take regional systems into consideration when certifying trash capture devices to allow for reasonable compliance for unusual conveyance systems such as Solano County. While statewide consistency is mentioned, if consistency creates unattainable trash capture compliance for small MS4s with no curb and gutter MS4 system, the Policy creates unfair difficulty for low-risk MS4s such as Solano County.</p>		
66.3	<p>If Solano County was forced into Track 2, the requirement for baseline and project-long monitoring would be difficult or impossible for Solano County because there are no drains to monitor. The only 'drains' in Solano County are ditches, culverts, and bio-swales on the sides of the road, which do not have a single entry point for monitoring and may be subject to dumping along their stretch. For an obviously rural and</p>	<p>Track 1: Install, operate and maintain full capture systems <u>within the MS4 system</u> <del>for all storm</del> that captures runoff from one or more of the priority land uses in their jurisdictions:</p>	<p>Please see Responses to Comments 11.4 and 66.1.</p>



Comment Letter	Comment	Recommended Language	Response
66.4	<p>low trash-generating area like Solano County, it seems the difficulty of complying with Track 2 requirements would outweigh the marginal gains.</p> <p>One of the biggest concerns for Solano County is how the State Water Board will classify Solano County's stormwater system of roadside ditches in the Draft Trash Policy. The State Water Board made the determination to place Solano County under the Phase II Small MS4 permit despite the fact that Solano County has no separate sewer system, and there is an imperative that this should not create logistical and financial hardships for Solano County in complying with the Draft Trash Policy. We ask that the State Board make more detailed requirements for rural municipalities without sewer or drain systems for their commercial/industrial areas, including an equivalent Track 1 route.</p>		<p>The State Water Board does not intend to define Solano County's roadside ditches with the Trash Amendments. However the State Water Board will address the specifics in the next implementing Phase II MS4 permit. The intention is that the implementation provision necessary to be in compliance with the prohibition of discharge are focused on curb, gutter catch basins and priority land uses. Thus Solano County's implementation provision requirements would be based on trash load in catch basins in priority land uses. Please see Responses to Comments 45.16 and 66.1.</p>
66.5	<p>Solano County has concerns about the lack of definition for the priority land use areas (commercial, industrial, and transportation hub). The State Water Board needs to provide definitions for each area before implementing the policy for consistency across municipalities. Solano County appreciates that</p>	<p>A permitting authority may determine that specific land uses or locations (e.g. parks, stadia, schools, campuses, or roads leading to landfills) have a <u>trash generation rate that is comparable to</u></p>	<p>Please see Response to Comments 66.1 and 66.4.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>priority land use areas will be identified not by zoning code but by actual land use. As seen in the attached spreadsheet, Solano County has considerable acreage that would be zoned for commercial, industrial, etc. land uses. However when you examine the actual areas, most of the land is on the outskirts of incorporated cities and has little developed commercial, industrial, etc. land use. This brings up the question of sizing to identify priority land use areas. There should be numerical sizing criteria for identifying priority land uses for commercial and industrial land use, as there is for high-density residential (30 units per acre). For example, although there is a zoned commercial area, it may have one or two commercial facilities per acre. While this is a 'commercial' area, it is not a high trash-generating area – similar to how not all residential areas are high trash-generating. By identifying a number of facilities per square foot, we can more accurately identify high trash-generating areas and avoid wasting resources on isolated commercial and industrial sites with little trash generation and foot traffic.</p>	<p><u>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.</u></p>	

Comment Letter	Comment	Recommended Language	Response
66.6	<p>If Solano County is forced into Track 2 requirements, we see an opportunity for prioritizing areas based on the initial monitoring requirement. Due to financial constraints (see next Concern), we believe that the Draft Trash Policy would be more effective if permittees could use the initial monitoring data to identify high- and low-trash generating areas, and direct resources accordingly. The current Draft Trash Policy allows for Permittees to identify high-trash generating areas and direct resources accordingly. However with finite resources, there is no way for MS4s to identify lower-trash generating areas and de-prioritize accordingly. This creates an issue of being unable to move resources to higher-risk areas, and/or disproportionately applying too many resources to lower-risk areas. The only option is for MS4s to expend more resources at higher-generating areas, while still having to expend the same resources for all other land uses regardless of risk, which would not be a reasonable approach. This creates the problem that MS4s will be unlikely to want to identify high-generating areas, as this will only necessitate unnecessary expenditure be spent on this trash program when funds are already limited. The Board must allow for</p>	<p>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.</p>	<p>Please see Response to Comments 10.1 and 10.7.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>more flexibility for MS4s to have the ability to move funds away from low-risk area. Recommendation: The County recommends that if the initial monitoring results show an area to have little to no trash and/or little to no risk for trash impairment, Permittees should be able to present the evidence to the Board and opt out of Draft Trash Policy requirements in low-generating areas going forward. This would conserve limited resources while allowing Permittees to focus efforts and funds on high-generating areas for trash.</p>		
66.7	<p>Solano County is committed to protecting and improving water quality, but has many concerns with appropriate funding levels when comparing risk levels. As with many MS4 policies statewide, the Draft Trash Policy is targeted at larger MS4s with higher trash outputs and higher pollution risks than Solano County. Solano County has a few very small areas which may qualify as priority land uses, and these areas are largely on the outskirts of incorporated cities and are lower-risk than the high density commercial and industrial areas in cities. Additionally, there are no trash-impaired water bodies within Solano County, which shows the relatively small risk that trash currently poses to beneficial use within the County.</p>		Please see Response to Comment 10.4.

Comment Letter	Comment	Recommended Language	Response
	<p>As with many policies, Solano County would have to comply with onerous requirements with no regard for relative trash risk. So, although Solano County is likely a very small contributor to trash in the watershed, it would still need to comply with costly regulations. Additionally, the fact that Solano County is so small and rural – placing it at a lower trash risk – is precisely why it may not be able to comply with the more straightforward and cost-effective Track 1. So rather than being rewarded for having a lower trash risk in the County, we will be burdened with higher relative costs to comply. We ask that the policy be amended to account for all MS4s in its logistics and its financial impact. Lastly, there are no current funding mechanisms to help permittees to obtain compliance. Prop 218 precludes stormwater entities from raising their fees for stormwater management. As such there are no ways for MS4s to recoup costs for compliance. Recommendations: The County recommends that non-competitive funding opportunities be made available to all MS4s for compliance with the Draft Trash Policy. Additionally the County recommends that a sized approach to compliance be adopted, with lower-risk, unusual MS4s like Solano County not being penalized for their</p>		

Comment Letter	Comment	Recommended Language	Response
67.1	<p>systems with relatively onerous, restrictive, and expensive costs for compliance.</p> <p>We oppose the suggestion of local ordinances banning products as an effective means to combat litter. We urge the Board to reject this punitive option. Combating litter in public spaces, including waterways, demands attention to the source or root cause of the problem, which is irresponsible behavior. Banning products will negatively impact consumers, manufacturers, their employees and local economies, with little certainty that this type of measure will change behavior and prevent littering. This sends a very chilling message to existing product manufacturers and those contemplating expanding or siting operations in the state.</p>		<p>Please see General Response to Comment Letter 1 and Comment 1.3. Commenter's concerns relate to regulatory source controls and time extensions which have been removed from the proposed Final Trash Amendments. (Ocean Plan Amendment at removed III.L.5; Part I ISWEBE at removed IV.A.6) Based on the revisions and discussions in the referenced responses, commenter's underlying arguments are not applicable to the Trash Amendments which will be considered for adoption by the Board and they will not be responded to in detail.</p>
67.2	<p>We support the use of best management practices (BMPs) described as litter education, expanded recycling and placing additional trash cans in public spaces. We do not support mandatory producer take-back programs which place the full burden on manufacturers with unknown costs and unfettered authority to regulators. Recommendation: We urge the board to reject this option. This creates a state program financed by business, regardless of</p>		<p>Please see General Response to Comment Letter 1 and Comment 1.3. Commenter's concerns relate to regulatory source controls and time extensions which have been removed from the proposed Final Trash Amendments. (Ocean Plan Amendment at removed III.L.5; Part I ISWEBE at removed IV.A.6)</p>

Comment Letter	Comment	Recommended Language	Response
68.1	<p>affordability and cost-benefit. Again, such a mandate does not address the root cause of the litter problem.</p> <p>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.</p>		<p>The asterisk is used to designate a term as a defined term in the California Ocean Plan. All capital letters is used to designate a term as a defined term in the forthcoming ISWEBE Plan.</p>
68.2	<p>As was discussed at the July 16th 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.</p>		<p>Please see Responses to Comments 6.2, 10.4, 16.3, and 29.4.</p>
68.3	<p>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.</p>		<p>Please see Response to Comment 4.5.</p>

Comment Letter	Comment	Recommended Language	Response
68.4	The State should consider replacing ambiguous terms like 'substantial' with 'Comparative Trash Generation Rate' when defining alternative priority land uses.		Please see Response to Comment 59.18.
68.5	Define 'adjacent areas' in the Water Quality Objective.		Please see Response to Comment 50.9.
68.6	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.		Please see Response to Comment 10.6
68.7	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)?		Please see Response to Comment 12.3.
68.8	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.		Please see Responses to Comments 11.4 and 25.1.



Comment Letter	Comment	Recommended Language	Response
68.9	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, objective criteria for the measurement of "performance results" of Track 2 should be explicitly delineated by the Amendment.		Please see Responses to Comments 4.6, 6.2, and 16.3.
68.10	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. 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.		Please see Responses to Comments 11.4, 25.1, and 59.9.
68.11	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 (Department)		Comment noted. If these state and federal properties have a NPDES permit, then they will be subject to the Trash Amendments.

Comment Letter	Comment	Recommended Language	Response
68.12	<p>regulated under the provision of this Policy, a permittee has limited authority to require compliance at State or Federal facilities.</p> <p>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&amp;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. 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</p>		<p>The State Water Board appreciates the complexity of tasks that permittees must undertake to install treatment controls. The intention of the certification process is to ensure that the general design of a full capture system effectively captures trash 5 mm or greater during the one-year one-hour storm event. The State Water Board intends for resources to be efficiently directed towards effective treatment controls to capture and remove trash. The State Water Board disagrees that "prior to installation" would penalize a community, as resources should be directed to treatment controls proven to be effective for capturing trash. Additionally, it is not the expectation that each device that is to be inserted will need to be certified. This would be highly infeasible. The certification process is for the general design of a full capture system, not for each individual system installation in a drop inlet.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>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 receiving 1 O'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.</p>		
68.13	<p>As recognized during the July 16th (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</p>		Please see Response to Comment 4.5.

Comment Letter	Comment	Recommended Language	Response
	<p>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.</p>		
68.14	<p>Although the State made clear during stakeholder meetings and the July 16th (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.</p>		Please see Response to Comment 56.1.
68.15	<p>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.</p>		Please see Response to Comment 56.1.

Comment Letter	Comment	Recommended Language	Response
68.16	<p>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.</p>		Please see Response to Comment 4.6.
68.17	<p>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.</p>		<p>The intention is for certification is for the overall technical specifications of the full capture systems, and not the certification of each individual full capture system installation. Additionally, please see Responses to Comments 59.15 and 68.12.</p>

Comment Letter	Comment	Recommended Language	Response
68.18	<p>As currently constructed, the reference to 'it' and 'its' may be misinterpreted as 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. 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.</p>		<p>Please see Response to Comment 59.18. Additionally, the reference to "it" and "its" has been adjusted to "MS4 permittee" and "MS4 permittee's," respectively, in the proposed Trash Amendments. (See Ocean Plan Amendment and Part I ISWEBE definition of "alternate equivalent land uses" within the definition of "priority land uses.")</p>
68.19	<p>The current definition of trash is far reaching. It can be legally construed to include virtually every solid material from common trash to sand.</p>		<p>Please see Responses to Comments 18.2 and 59.19.</p>
68.20	<p>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</p>		<p>Properly designed systems will have bypass mechanisms that should prevent localized flooding in most areas. Installation of devices in areas where snow accumulation occurs may be an issue and will need to be taken into consideration when designing, operating, and maintaining the device. See Final Staff Report sections 5.1.1-5.1.3 (pp 93-96).</p>

Comment Letter	Comment	Recommended Language	Response
	<p>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 snow load conditions. The requirements of the Trash Amendment should take into consideration winter weather conditions and be seasonally relaxed to accommodate them.</p>		
69.1	<p>The Agency supports the recommendation to allow institutional controls, such as product bans, to be used in combination with structural controls to meet the prohibition of trash discharge. Our Agency adopted a single use bag ban ordinance in 2012 on behalf of all the</p>		Please see Response to Comment 4.5.

Comment Letter	Comment	Recommended Language	Response
70.1	<p>cities in Alameda County. The ban is proving to be an effective method to dramatically reduce this source of litter that finds its way into our waterways, and reduce waste.</p> <p>An enforceable statewide trash policy will have annual numeric reduction criteria with specific deadlines to ensure enforcement of the policy is feasible and effective. In addition, a statewide trash policy should have mandatory monitoring and reporting requirements to determine actual reduction rates. The proposed Trash Amendments do not require monitoring and reporting of reduction rates under Track 1. Neither track states numeric annual reduction criteria. Both tracks should require numeric monitoring and reporting. This ensures a uniform, efficient, and reliable system that holds permittees equally accountable. Permittees will adopt additional source and institutional controls to meet these monitoring and reporting requirements ensuring swift compliance.</p>		Please see Response to Comment 6.2.
70.2	<p>To remedy this expensive problem, the Board should adopt numeric annual reduction criteria: the most efficient, enforceable policy possible keeping in mind limited staff resources.</p>		Please see Response to Comment 6.1.
70.3	<p>To address the threat to our</p>		Please see Response to Comment 4.5.



Comment Letter	Comment	Recommended Language	Response
	<p>waterways, Surfrider recommends incentivizing source controls that will help the Board attain its own goals of ridding pollution from our waters. The Board can influence municipalities through the Trash Amendments in two ways: First, it can incentivize source controls such as plastic bag bans by allowing extended time for compliance to municipalities who enact such a source control measure. Second, the Board should adopt a policy that incentivizes source controls under both Track 1 and Track 2. Surfrider supports incentivizing source controls, such as plastic bag bans, by allowing municipal permittees compliance time extensions for each source control it implements, limiting the time extension to three years.</p>		
70.4	<p>High-traffic beaches and parks represent a significant amount of trash that enters the water. Beaches and parks are frequently located near water resources such as rivers and oceans resulting in pollution “hotspots.” Surfrider urges the Board to remove discretionary language and require local water boards to identify non-point source polluters such as beaches, and adopt issue waste discharge requirements (“WDRs”). Surfrider recommends specifically addressing beaches as trash hotspots. We further recommend requiring permittees to</p>		Please see Response to Comment 6.5.

Comment Letter	Comment	Recommended Language	Response
70.5	<p>conduct trash hotspot surveys to determine areas where trash is being directly discharged into a body of water.</p> <p>A ten to fifteen year compliance deadline far exceeds the time frame necessary to implement these measures to eliminate trash from our waters. Trash pollution, especially plastic pollution, is an urgent problem that poses serious risks to public health and the environment. The State Board should act firmly and swiftly to deal with this statewide problem. Therefore, Surfrider recommends reducing the compliance deadline to five years.</p>		<p>The State Water Board agrees that trash poses serious risks to public health and the environment. To allow for statewide consistency and provide sufficient time for permittees to successfully achieve the prohibition of discharge, the Trash Amendments propose a ten year compliance deadline for both Track 1 and Track 2, which allows for implementation of trash controls to occur over at least two permit cycles. This provides the ability to use the second permit cycle to build on the first permit and allow for adaptive management. (See Ocean Plan Amendment III.L.4.a.2-3 and Part I ISWEBE IV.A.5.a.2-3.)</p>
70.6	<p>If the Board refuses to adopt a “zero trash” policy, we urge the Board, at minimum to change the language from “trash shall not accumulate in ocean waters” to “ocean waters shall not contain trash.”</p>		<p>Please see Response to Comment 6.1.</p>
71.1	<p>A more comprehensive policy would require full catch systems while simultaneously encouraging source reduction efforts, such as plastic bag bans, and educational outreach to reduce the amount of trash generated all together. Allowing a permittee to choose Track 1 without requiring an actual showing of trash reduction through monitoring reports discourages permittees from implementing more holistic methods of trash reduction.</p>		<p>Please see Response to Comment 6.10.</p>

Comment Letter	Comment	Recommended Language	Response
71.2	<p>The State Water Board should hold municipalities accountable by compelling them to calculate the current amount of trash they release into the water, and then develop a method for calculating their trash reductions annually. Numerical goals should be set for each permittee to ensure enforceable compliance and swift success at eliminating trash from our water.</p>		<p>Please see Response to Comment 6.2.</p>
72.1	<p>The amendments will certainly have an impact at preproduction plastic pellet transfer sites that include transload facilities and other tracks where UPRR has leased property to customers for transload of preproduction plastic pellets. Given the number of these facilities in the state, the regulations will impose a significant cost on those facilities to comply.</p>		<p>The State Water Board finds that preproduction plastics are not acceptable in surface waters, as clearly stated with a prohibition of the discharge for preproduction plastics. Preproduction plastic pellet transfer sites, such as transload facilities, should implement strict BMPs. If the Water Boards finds a gross discharge of preproduction plastic pellets at such as transfer site, then the Water Boards will work with Union Pacific Railroad via an information transfer to determine the party for enforcement action.</p>
72.2	<p>Union Pacific's main concern however is with the broad definition of trash and the prohibition of trash in discharge. The definition seems to capture the entire railroad regardless of the process or activity conducted on land used for industrial purposes. This broad definition and the trash prohibition would set up an impossible standard for the railroad to meet – it would be infeasible to install full capture systems or monitor other compliance options along</p>		<p>As Union Pacific Railroad does not have NDPEs permit the conditions of Track 1 and Track 2 are not applicable. The State Water Board does not expect that Union Pacific will need to install full capture systems or monitor every mile of track for trash. However, if there is a gross discharge of trash the Water Boards will first provide a notice to request more information instead of a violation.</p>

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73.1	<p>every mile of track in this state 24 hours per day.</p> <p>EPA recommends that the TCAs explicitly call for adaptive management based on monitoring the effectiveness of controls and modifying control strategies as necessary to attain the water quality objective. EPA recommends that receiving water monitoring pursuant to both Track 1 and Track 2 focus both on the volume of trash and the type of trash present, to allow for adaptive management, including potential development of source control strategies.</p>		<p>The State Water Board agrees that monitoring is a key component to assessing that the implemented trash controls are leading to the achievement of compliance with the prohibition of discharge and protecting the beneficial uses of California's surface waters. Additionally, the State Water Board agrees that monitoring should be utilized by permittees to provide for adaptive management decision making for implementing trash controls. With limited resources, the most effective combination of controls to control trash should be used to determine compliance with the permit terms for the prohibition of discharge of trash. The narrative water quality objective for trash is implemented through the prohibition of discharge of trash. (Ocean Plan Amendment at III.I.6; Part I ISWEBE at IV.A.1.)</p> <p>The Trash Amendments propose a tailored approach to provide flexibility to Water Board permit writers to design monitoring programs that reflect the compliance methods elected by permittees along with regional characteristics. Due to the cost and efficacy of full capture systems, the State Water Board does not believe that the type of monitoring proposed by EPA is necessary for MS4 permittees complying under Track 1. Instead, MS4s complying under Track 1 would provide a report to the applicable Water Board demonstrating installation, operation, and maintenance of full capture systems on an annual basis.</p> <p>MS4 permittees complying under Track 2 must develop and implement annual monitoring plans to demonstrate the effectiveness of the controls and compliance with full capture system equivalency. (Ocean Plan Amendment at III.L.5; ISWEBE Part I at IV.A.6.) This monitoring requirement is intended to establish an adaptive management program similar to what EPA is suggesting. For statewide consistency, all Track 2 monitoring programs should be striving to answer the same fundamental questions, which may include receiving</p>

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73.2	<p>EPA recommends that the Monitoring and Reporting provisions of the TCAs explicitly require that permittees complying via both Track 1 and Track 2, and Caltrans, submit a monitoring plan for review and approval, including an opportunity for public review. To conserve staff resources, a provision could be included for the plans and reports to be deemed approved if the permitting authority doesn't provide comments within a defined timeframe (e.g. 60 or 90 days). EPA recommends that the TCAs include specific expectations for the monitoring plans as included for the monitoring reports, such as the type of data to be collected (i.e. volume, type, etc.) to ensure entities in same area complying under Track 1 and 2 will collect complementary data. Additionally, EPA recommends that the state should specify how data will be compiled and stored to provide consistency across Regional Boards.</p>		<p>water monitoring. However, other approaches could also be used to determine the efficacy of the control programs. The proposed Final Trash Amendments, in the definition of full capture equivalency, provide for two examples of how trash control could be assessed, only one of which requires monitoring within the receiving water. Please see Response to Comment 6.2.</p>
			<p>The Trash Amendments are amendments to statewide water quality controls plans to provide the framework for the trash control provisions to be incorporated as permit terms into NPDES permits, WDRs, and waivers of WDRs. The Trash Amendments aim to achieve the balance between prescriptiveness and flexibility for Water Boards permit writers. Upon insertion of the trash provisions into the permits, the permittee shall be required to develop monitoring plans that "demonstrate the effectiveness of [Track 2] and compliance with full capture system equivalency." Monitoring reports must be submitted on an annual basis. The permittee shall be required to comply with such permit terms. Additionally, the Trash Amendments specify that the "following monitoring and reporting provisions are the minimum requirements that must be included within the implementing permits." (Ocean Plan Amendment III.L.5; Part I ISWEBE IV.A.6.) That is to say that the permitting authority may determine additional monitoring and reporting requirements are appropriate. It may be appropriate for these comments to be directed to the pertinent water board as it modifies or adopts a permit to incorporate the trash provisions. State Water Board is not inclined to include permitting authority review and approval and/or a public process for the adequacy of the monitoring plan within the terms of the Trash Amendments.</p>

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73.3	<p>The first of the priority land use definitions, high-density residential, is defined as all land uses with at least 10 developed dwellings/acre. This would generally exclude a residential neighborhood made up of solely single family homes. A residential neighborhood of single family homes may generate a high volume of trash, especially if there is a commercial district or a bus stop in the nearby vicinity.</p>		<p>The priority land uses are based on lessons learned and extensive data collected from permittees with existing trash controls implemented in accordance to a Trash TMDL or permit conditions. The priority land uses include five categories of land uses that generate high amounts of trash. (Ocean Plan Amendment and Part I ISWEBE at definitions for "priority land uses".)</p> <p>The State Water Board recognizes that other land uses may generate higher rates of trash, for example, in some cities solely single family homes may generate high amounts of trash. To allow for these occurrences, the Trash Amendments include a provision for a MS4 permittee to focus on "equivalent alternate land uses" under both Track 1 and Track 2. (Ocean Plan Amendment and Part I ISWEBE at definitions for "alternate equivalent land uses".)</p> <p>Quantification measures such as street sweeping, mapping, and visual trash presence surveys can be used to prioritize these land uses for Track 1 or Track 2 controls. The aim of the Trash Amendments is to address the areas with the highest trash generation rates not all land uses. This can be accomplished with the five priority land uses and provision of "alternative equivalent land uses."</p>
73.4	<p>The definitions of Industrial and Commercial land uses stipulate that the "primary" activities on developed parcels must be commercial or industrial. The implication is that the majority of the land must be commercial or industrial in order to trigger MS4 trash controls. The presence of a high trash generating commercial or industrial activity should trigger trash controls regardless of whether such activity is the primary land use in a given area.</p>		<p>Few areas exist where trash is not generated. However, a focus of the Trash Amendments is to control trash in areas with high trash generation rates. The industrial and commercial definitions were crafted to focus trash controls on land uses where the majority of the catch basin includes industrial and commercial uses. The State Water Board recognizes that other land uses may generate higher rates of trash. The permitting authority has the discretion to include specific land uses and locations determined to generate substantial amounts of trash and require additional trash controls outside of priority land use locations. (Ocean Plan Amendment at III.L.2.d; Part I ISWEBE at IV.A.3.d.)</p> <p>Please see also Responses to Comments 6.6 and 73.3.</p>

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73.5	<p>The use of the term "predominate" in the Mixed Urban definition implies that the listed land uses must make up the majority of the area under consideration. If the mixed uses present generate high volumes of trash, that area should be subject to controls, regardless of whether or not these uses make up a majority of the land area.</p>		<p>Please see Responses to Comments 11.4, 73.3, and 73.4.</p>
73.6	<p>Commercial and industrial enterprises which generate trash, as well as public transportation stations, have trash impacts beyond the immediate areas in which these land uses are located. Trash controls should be implemented in areas (including low and medium density residential areas) which are located adjacent or in close proximity to commercial or industrial activities that result in trash generation, and in areas adjacent or in close proximity to public transportation stations.</p>		<p>Please see Response to Comments 73.3 and 73.4.</p>
73.7	<p>Concerns with land use definitions also apply to the "significant trash generating areas" under the jurisdiction of Caltrans. Caltrans must address highway on- and off-ramps located "in high density residential, commercial and industrial land uses." EPA recommends that in order to cover high trash generating areas, Caltrans should implement controls if land uses which generate</p>		<p>The wide variety of sites, locations and surrounding land uses make it infeasible for the State Water Board to determine a priority where the most likely areas of trash generation will be within Caltrans facilities. For this reason, the Trash Amendments requires Caltrans to, include in its implementation plan a description of the locations of its significant trash generating areas. State Water Board agrees that it is likely that significant trash generating areas will likely be adjacent to highway on-and off-ramps, and likely more within urban areas than non-urban areas. However, the State Water Board is unaware of studies of sufficient reliability that would support</p>

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	trash are present adjacent or in close proximity to on/off-ramps.		more prescriptive requirements. The Trash Amendments will require Caltrans to implement trash controls if the adjacent land uses to highway on-and off-ramps are determined in consultation with the permitting authority to be significant trash generating areas. To the extent these areas overlap priority land uses, the amendment allow coordination with a MS4 Phase I or Phase II permittee's control programs. That accommodation may be utilized to address the areas of concern pointed out in this comment and further revision to the Trash Amendments is not warranted.
73.8	EPA recommends that the TCAs be revised to also provide the opportunity for members of the public to request to the regional permitting authority that specific land uses or locations be added for trash control coverage under permits issued to MS4s and Caltrans.		Actions required by the amendment will be incorporated into waste discharge requirements, which are adopted through a public process. Members of the public will be able to request to the permitting authority add specific land uses or locations for trash control coverage under permits issued to MS4s and Caltrans. Local knowledge is an important component to identifying specific areas that generate high amounts of trash and members of the public can aid the permitting authority in determining specific land uses or locations that need additional trash controls.
73.9	The TCAs' details focus on NPDES permits and are less explicit about expectations for implementation in areas covered by WDR and Waivers of WDRs. We recommend the TCAs specifically reference the "Policy for Implementation and Enforcement of the Non-point Source Pollution Control Program" and provide clearer direction for how compliance in these areas will be achieved. For example, we suggest considering more explicit requirements to identify and address sources of trash that are not subject to NPDES permits.		Although the implementation provisions for compliance with the prohibition of discharge focus on trash discharge via storm water, it is well recognized that trash is transported to surface waters via both point and non-point sources. Statewide, nonpoint source discharges of trash cause less of an impact to state water than point sources. However, at the local or regional level nonpoint sources can be a substantial source of trash. These areas may include high usage campgrounds, picnic areas, beach recreation areas, and marinas, which can be subject to WDRs or conditional waivers of WDRs. These types of areas would be assessed by the Water Boards to determine if trash controls are necessary. The Trash Amendments specify that that a water board may require dischargers without NPDES permits, WDRs, or waivers of WDRs to implement "any appropriate trash controls in areas or



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	<p>Priorities for non-permitted high trash areas (e.g., beaches) could also be identified in the updated Nonpoint Source Management Plan currently being developed by the State. As noted in a previous comment, EPA recommends the use of adaptive management based on findings on the effectiveness of NPDES controls, including the results of receiving water monitoring. As monitoring identifies trash in receiving waters, MS4 permittees may identify sources of trash that are not under their jurisdiction which could be addressed by WDRs and waivers of WDRs.</p>		<p>facilities that generate trash." Such areas may include "high usage campgrounds, picnic areas, beach recreations areas, parks not subject to an MS4 permit, or marinas," as well as other areas. (Ocean Plan Amendment at III.L.3; Part I ISWEBE at IV.A.4.) For such areas determined to require trash controls within a WDR or waiver of a WDR, management practices could include enforcement of litter laws, education, recycling programs, more or better trash receptacles, and/or more frequent servicing of trash receptacles or similar controls that achieve trash control. This approach is recommended as it targets regional regulation of the discharge of trash from locations with high trash generating rates. Many of the items in this comment would be appropriately directed to the State Water Board's consideration of adopting a revised Nonpoint Source Management Plan.</p> <p>Additionally, receiving water monitoring may be a necessary component to assess compliance with the prohibition of trash and trash control effectiveness, as well as highlight additional locations where trash controls are necessary. However, receiving water monitoring is not a required component with monitoring for Track 2 or Caltrans to provide flexibility to permittees to develop a strategy to demonstrate the effectiveness of trash controls and compliance with full capture system equivalency. See also Response to Comment 7.12 for further discussion on receiving water monitoring.</p>
73.10	<p>We suggest that the TCAs specify the regulatory vehicle(s) to be used to ensure compliance with the prohibition of preproduction plastic not covered by the IGP. We urge the State to utilize all available tools to ensure that industries that use or transport preproduction plastics are addressed in a holistic manner that prevents the discharge of these materials. Additionally, the TCAs</p>		<p>The prohibition of discharge on preproduction plastics is intended to build upon the existing efforts in the IGP. There are a number of locations that are outside of coverage of the IGP, such as railroad transload stations. These locations would be subject to the outright prohibition of discharge of preproduction plastics contained in the amendment. The prohibition of discharge on preproduction plastic is intended to provide a clear enforcement mechanism for the Water Boards if there is a discharge of preproduction plastics to areas outside of the coverage of the IGP. Additionally, regardless of the proposed Trash Amendments, all facilities with the potential to discharge</p>

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	<p>could be expanded to provide for increased coordination among industries and MS4 permittees to identify preproduction plastic users which are lacking required permits. EPA recommends specifying any expectations for new or revised language in the existing IGP or construction general permit (CGP), or new requirements on industrial/construction facilities which are already required to control trash.</p>		<p>preproduction plastics would still continue to comply with the "Preproduction Plastic Debris Program" under Water Code section 13367(a) and the requirements in the IGP (Order No. 2014-0057-DWQ) to comply with the prohibition concerning preproduction plastics. Additional text has been added to the prohibition language in Ocean Plan Amendment III.I.6.e and Part 1 ISWEBE IV.A.2.e to provide clarity on this point.</p>
73.11	<p>EPA recommends the policy be more specific for termination of permit coverage related to the IGP and CGP: "Termination of permit coverage for industrial and construction storm water dischargers shall be conditioned upon the proper operation and maintenance of all controls." There are various circumstances under which construction or industrial permit coverage may be terminated, and the policy may need different requirements depending on the circumstances. For construction facilities, the language appears to indicate a requirement for post-construction controls for trash collection be installed and maintained. If this is the case, the policy should provide additional detail on the specifics and permitting mechanisms for ensuring compliance. For industrial facilities, the TCAs could state that all trash</p>		<p>When a facility or site wants to terminate coverage from the IGP or CGP, a Notice of Termination must be submitted to the permitting authority. For the Notice of Termination to be approved by the permitting authority, a set of conditions need to be met by the permittee as outlined in the respective permit. For example, Section II.D.1.d of the CGP (2009-0009-DWQ amended by 2010-0014-DWQ &amp; 2012-0006-DWQ), states that one condition for a construction site to be considered complete is when "construction materials and waste have been disposed properly." The intent within the proposed Trash Amendments is to add trash controls to the list of conditions the permittee or discharger must complete in order to be terminated from coverage from under the IGP or CGP. State Water Board staff agrees with U.S. EPA's suggestions for termination language to be further specified, however the proper place for this detail is within the IGP and CGP. Re-opening the IGP and CGP is beyond the scope of this project.</p>

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73.12	<p>must be properly disposed of and the site secured before coverage may be terminated.</p> <p>We recognize that in the Los Angeles Region extensive trash control measures are being implemented throughout MS4s, that there has been significant progress implementing these controls, and it is our view that these required controls should not be modified by the TCAs. However, as noted previously in these comments, we recommend that the TCAs be modified to require receiving water monitoring to determine if the water quality objective is being achieved, and to explicitly call for adaptive management based on the effectiveness of NPDES permits controls, including the identification of trash sources that may or may not be under the jurisdiction of permittees. These recommended modifications to the TCAs apply across the State, including the Los Angeles Region.</p>		<p>The Los Angeles Water Board has led the way with effective trash management strategies with the Los Angeles River Watershed Trash TMDL and the other 14 trash and debris TMDLs. Since the adoption of the trash and debris TMDLs, significant trash reduction and trash control has occurred in the Los Angeles Region. State Water Board staff finds the trash control efforts by permittees in the Los Angeles Region to be commendable. These effective strategies demonstrate that trash control is both necessary and achievable statewide. The State Water Board staff has evaluated the efforts of the existing trash and debris TMDLs in order to develop the proposed Trash Amendments. In the evaluation process, the State Water Board consulted with the Los Angeles Water Board about the present day status of the trash and debris TMDLs and the proposed Trash Amendments. Based on this consultation, the proposed amendment does not propose changes to the Los Angeles Water Boards TMDLs. However, as trash and debris TMDLs are nearing the end of compliance, the proposed amendment directs the Los Angeles water board to hold a public meeting to consider the scope of existing TMDLs and to assess the progress, feasibility, and available resources of the trash control effort. (Ocean Plan Amendment at III.L.1.b; Part I ISWEBE at IV.A.1.b.)</p> <p>For the rest of the state, the proposed revisions to the Trash Amendments include a requirement for dischargers to either install full capture across their systems, or demonstrate full capture equivalency of other control programs. This requires dischargers to evaluate trash generation and control rates and demonstrate that control is equivalent to what would be achieved if full capture devices were installed. This effectively an adaptive management program. However, the State Water Board disagrees that receiving water monitoring is the only way to assess effectiveness. (See Response to Comment 73.1.)</p>

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			<p>Also, as noted in the Staff Report section 1.5, The main transport pathway of trash to receiving water bodies is through storm water transport. Capturing trash in the storm drain system should capture most trash the priority land use areas, which are where most trash is generated. However, it is not the intent of the State Water Board to require MS4s to bear full responsibility for trash from all sources and thus MS4s are not required to account for trash from other sources. Instead, the Trash Amendments provides in Section 3 that Permitting Authority may require dischargers other than MS4s to implement any appropriate trash controls in areas or facilities that may generate trash.</p>
73.13	<p>For the San Francisco Bay Region, we recommend the State reconsider how the TCAs will impact the implementation of existing trash provisions and compliance schedules, and ensure that coverage under the TCAs is as protective as it would be under the San Francisco Bay Regional Water Quality Control Board's current approach for trash control under its Municipal Regional Permit.</p>		<p>Please see Response to Comment 7.3.</p>

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73.14	<p>We recommend further clarity be provided on the intersection between the time schedules in the TCAs and the State's Compliance Schedule Policy [SB #2008-0025]. We further recommend that the TCAs better describe the requirements, set forth at 40 C.F.R. §122.47, for including a compliance schedule in an NPDES permit, such as justifications for the specific need for and length of the compliance schedule allowed and interim milestones (per annum) for any compliance schedule longer than 1 year.</p>		<p>The State Water Board's Policy for Compliance Schedules in NPDES Permits (at <a href="http://www.swrcb.ca.gov/board_decisions/adopted_orders/resolutions/2008/rs2008_0025.pdf">http://www.swrcb.ca.gov/board_decisions/adopted_orders/resolutions/2008/rs2008_0025.pdf</a>) applies to NPDES permits adopted by the Water Boards that must comply with Clean Water Act section 301(b)(1)(C). (See Resolve Clause, No. 2.) The Compliance Schedule Policy applies to traditional point source discharges and not municipal storm water discharges. Additionally, the Water Board's Compliance Schedule Policy does not specifically apply to compliance schedules for prohibitions. (See Whereas Clause No. 11.) The Trash Amendments' compliance schedules pertain to an NPDES permittee's requirement to comply with the prohibition of discharge of trash. (Ocean Plan Amendment at III.L.4 and III.L.5; Part I, ISWEBE at IV.A.5 and IV.A.6.)</p> <p>The Water Boards have authority to include compliance schedules in an NPDES permit when the State's water quality standards or regulation include a provision that authorizes such schedules in an NPDES permit. Consistent with the above authorities, the Trash Amendments set forth the time schedule requirements applicable to NPDES permits regulating the MS4 permittees. When a water board modifies, re-issues, or adopts an applicable permit, the Trash Amendments require the water board to include the time schedule requirements contained in the Trash Amendments, including, where applicable, those pertaining to a permittee providing notice of whether it will comply Track 1 or Track 2, submission of the implementation plan, demonstrating interim achievements or milestones towards full compliance, and submission of monitoring plans and annual monitoring reports. Water Code section 13263, subdivision (a), requires a water board to prescribe such requirements in permits as necessary to implement any relevant water quality control plan. (See also Water Code § 13377.)</p>

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74.1	<p>Indeed, this sensible finding to treat campuses individually on a case-by-case basis dependent on the amount of trash generated is included in the proposed regulations under Section L.2.d. which states: "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 III.L.2.a. or Chapter III.L.2.b. (as the case may be) with respect to such land uses or locations." The University appreciates the SWRCB's flexibility in determining applicability of the proposed amendments to our campuses on a case-by-case basis as needed to focus limited resources on significant concerns related to littering and trash generation.</p>		<p>The campuses that are designated permittees under the Phase II MS4 permit would have trash controls in the next implementing permit following the adoption of the Trash Amendments. Some Non-Traditional Small MS4 permittees, such as campuses, may be outside or lack jurisdictional authority over priority land uses. After reaching that determination in consultation with the applicable MS4, the appropriate Water Board may require the MS4 to adopt Track 1 or Track 2 control measures over such land uses or locations.</p>
75.1	<p>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.</p>		<p>Please see Response to Comments 4.1 and 10.9.</p>
75.2	<p>The Los Angeles Regional Water Quality Control Board should be allowed to include permit provisions consistent with the Proposed Trash</p>		<p>Please see Response to Comment 10.10.</p>

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75.3	<p>Amendments in areas where TMDLs exist if they desire without needing to reconsider the applicable TMDL(s).</p> <p>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.</p>		Please see Response to Comment 11.9.
75.4	<p>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.</p>		Please see Response to Comment 4.4 and 11.13.

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75.5	<p>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.</p>		Please see Response to Comment 4.6.
75.6	<p>The Program recommends that a more extensive list of certified devices be prepared prior to the adoption of the Proposed Trash Amendments. The Program also recommends refining the full-capture device certification process to streamline the certification process as much as possible.</p>		Please see Response to Comment 10.5.
75.7	<p>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.</p>		Please see Response to Comment 10.7.
75.8	<p>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. The Program recommends adding language to the Proposed Trash Amendments stating that, if the</p>		Please see Response to Comment 10.10.



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	<p>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.</p>		
75.9	<p>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.</p>		<p>Please see Response to Comment 10.4.</p>
76.1	<p>The proposed Trash Amendments would apply to waters within the jurisdiction of the Los Angeles RWQCB with trash TMDLs because the Ocean Plan amendments L.1.b.(2) and ISWEBE amendments B.1.b.(2) direct the RWQCB to force MS4 permittees to focus trash control efforts on high trash generation areas (HTGA) rather than all land uses. This would constitute a backsliding from the TMDL and NPDES permit requirements.</p> <p>Recommendation: That the land uses not included as HTGA be given additional time in the Time Schedule in Table 1 page 11 to comply with water quality objectives rather than eliminating them from consideration as sources of trash.</p>		<p>The commenter is incorrect as to the applicability of the proposed Trash Amendments. As noted in the applicability section (III.L.1 of the Ocean Plan and IV.A.1 of the ISWEBE Plan) the Trash Amendments does not apply to those waters within the jurisdiction of the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) for which trash Total Maximum Daily Loads (TMDLs) are in effect prior to the effective date of these Trash Provisions. See Response to Comment 42.4 for additional discussion of backsliding.</p> <p>An objective of the Trash Amendments is to focus limited resources on the areas and locations that generate high amounts of trash and are thus the most significant contributor to impairments of the beneficial uses. If land uses, areas, or locations that are outside of the defined priority land uses and do generate significant amounts of trash the amendment provides two separate mechanisms to address this. First, in the definition of high priority land uses, an MS4 permittee with regulatory authority over priority land uses* may issue a request to the applicable permitting authority that the MS4 permittee be allowed to substitute a land use with an alternate land use within the MS4 permittee's jurisdiction that generates rates of trash that is equivalent to or greater than the priority land use being substituted. Second, in the "Other Dischargers" section of the proposed amendment (section L.3 of the Ocean Plan and Section IV.A.4 of the ISWEBE Plan) the permitting</p>

Comment Letter	Comment	Recommended Language	Response
76.2	<p>There is little value of including the City of Cupertino as a reference of studies to determine sources of trash and generation rates because the City along with the City of San Jose is only one of over 70 municipalities that were required to submit similar reports. Delete City of Cupertino as a reference. (Section 1.5, page 6)</p>		<p>authority may require dischargers who are not subject to the Track 1 and 2 requirements to implement any appropriate Trash controls in areas or facilities that may generate Trash.</p> <p>The State Water Board does not agree that this change is necessary. While there are always challenges to monitoring, the BASMAA Baseline Trash Generation Rate Project did aid to establish a baseline to demonstrate progress towards trash loads reduction and categorize jurisdictions to high, medium, and low trash generating area. This work has continued to be further refined by current projects, like the Prop 84 Grant Tracking California's Trash, and has allowed for adaptive management with the next iteration of the MRP Permit.</p>
76.3	<p>Add a footnote to Table 1 and the Policy Amendments stating that municipalities may require and oversee the installation, operation and maintenance of full capture systems, other treatment controls and institutional controls on private property. (Table 1 page 11)</p>		<p>See Response to Comment 42.3.</p>
76.4	<p>The focus can be on high trash generation areas as long as the definition includes low density residential land uses.</p>		<p>A central element of the proposed Trash Amendments is a land-use based compliance approach to focus trash controls to the areas with high trash generation rates. While not specified as a priority land use, low density residential land uses could be included as an "alternate equivalent land use." See also Response to Comment 76.1.</p>
76.5	<p>The objective must also include "or cause a contamination or hazard to public health". The following objects have been found in storm water runoff that are threats to public health: hypodermic needles and syringes, loaded diapers, condoms, broken glass, broken fluorescent bulbs and sharp metal objects.</p>		<p>The State Water Board agrees that some trash can "cause a contamination or hazard to public health." Protection of public health is an intrinsic component of several beneficial uses. These uses and the potential hazard to human health are discussed thoroughly in section 1.4 and Appendix A (esp. Table 14). Thus the revised objective states that trash may not be present in amounts that "adversely affect beneficial uses."</p>

Comment Letter	Comment	Recommended Language	Response
76.6	<p>The discussion on page 66 must include a legal analysis explaining why the numeric objective of “Zero Trash” should not be established as the water quality objective.</p> <p>Add a footnote to the water quality objective in the Trash Amendments stating that: To achieve statewide consistency in the application of this objective the State Board intends to develop guidance to the regional boards for determining “acceptable” levels of trash in creeks, flood control drainage systems, wetlands, estuaries and the ocean that do not constitute a nuisance, adversely affect beneficial water uses and/or cause a contamination.</p>		<p>As noted in Section 4.2, and elaborated in comments 4.1 and 6.1, a “zero trash” numeric objective is not appropriate at this time as a statewide water quality objective. Determining the specific quantity of trash that constitutes a nuisance in any given water body is not feasible as within a statewide amendment. Instead, the definition of full capture equivalency has been added to the amendment. This serves essentially the same purpose as the guidance requested by the commenter.</p>
76.7	<p>The staff report needs to recognize that some of the Full Capture Devices and institutional controls i.e. street sweeping provide multiple water quality benefits in addition to controlling trash. Gross solids in storm water runoff are composed of vegetation, sediment and trash. Monitoring studies conducted in Los Angeles have found that trash is only about 10% of the mass and 25% of the volume of the gross solids and those conducted in the Bay Area found that trash is about 4% of the mass and 17% of the volume. Capture of vegetation would reduce</p>		<p>The State Water Board agrees that there are multiple benefits to certain controls including street sweeping. A discussion of multi-benefit projects is found in the staff report in Section 5.4. Additional changes recommended by the commenter are beyond the scope of this project, which is to address the impacts of trash. Other contaminants, such as gross solids are addressed through existing water quality control plan elements or may be addressed at a later date if the Board determines such action is warranted.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>the nutrient load and capture of sediments would reduce the load of pollutants associated with sediments. Capture of gross solids would reduce the accumulation of sediments at outlets to receiving waters. (Page 13)</p>		
76.8	<p>There are a number of issues regarding Full Capture Systems that need to be addressed in the staff report and policy amendments including:</p> <ul style="list-style-type: none"> <li>· Certification process is inconsistent with Section 13360(a) of the California Water Code</li> <li>· Certification limits the ability to implement the State Board's Decision and EPA Guidance on use of the iterative process for achieving compliance with water quality standards and discharge prohibitions</li> <li>· Design flow criteria significantly underestimates the peak flows for small catchments</li> <li>· Required minimal level maintenance must be specified and documented</li> <li>· Effectiveness of "full and partial capture systems" was based on incomplete or incorrect information</li> <li>· Loss of certification of a device only addresses future installation and does not address devices already installed that were recognized as achieving compliance with NPDES permits</li> </ul>		<p>The State Water Board disagrees that the certification process is inconsistent with Section 13360(a) of the California Water Code for several reasons, including: The statute provides that no "waste discharge requirement" or "other order" or "decree" may specify the manner in which the permittee must comply with that requirement. The State Water Board is will consider adopting the Trash Amendments which are water quality control plans and not waste discharge requirements, orders, or decrees. Additionally, the Trash Amendments do not specify the design, location, or type of construction in which the permittee must achieve compliance with the trash provisions (upon insertion into the permittee's permit). The Trash Amendments provide two tracks, either of which a permittee may elect to comply with the prohibition of discharge. Within Track 2, a permittee may select any combination of a wide range of treatment and institutional controls that can be implemented in a wide range of land use or location types.</p> <p>Water Code section 13360, subdivision (a) has no bearing on the certification process for full capture devices. With that in mind, the certification does not constitute a limit to the iterative process for compliance, as it expands due to lessons learned from existing trash control across California.</p> <p>Please see Responses to Comments 4.6, 73.1, 76.12, 76.18, and 76.42.</p>

Comment Letter	Comment	Recommended Language	Response
76.9	<p>Municipalities that select institutional controls such as street sweeping, storm drain cleaning, enforcement, etc. under Track 2 should be given a time schedule of two budget cycles or three years from the date of the proposed Trash Amendments to implement these control measures. Two budget cycles would allow sufficient time for contracting these services or obtaining equipment and staff to perform the operation. Other institutional controls such as ordinances should require 5 years at the most to be fully implemented. The 10-year compliance time frame in Track 1 and 2 must be limited to installation of large capacity Full Capture Devices serving large areas and providing the most cost effective life cycle benefits and trash removal efficiencies. Planning, design and obtaining funding for these larger more efficient systems requires more time than installation of devices in individual storm drain inlets.</p>		Please see Response to Comment 42.12.
76.10	<p>The following land uses should be added as "priority land uses" in MS4 Phase I and II Permits: business parks, sport complexes, amusement parks, regional transit parking lots and flea markets.</p>		<p>Comment noted. These are specific land uses or locations that a permitting authority may determine to generate substantial amounts for trash and require compliance under Track 1 or Track 2, as determined by the permitting authority. See also Response to Comment 42.2.</p>

Comment Letter	Comment	Recommended Language	Response
76.11	<p>The SWRCB must provide clear and definitive guidance on what constitutes a minimal level inspection, operation and maintenance program including the elements of the annual monitoring program.</p> <p>Recommend that the Installation, Inspection and Operation and Maintenance Programs be adopted as minimum level of effort under Monitoring and Reporting and be included as Appendices to the Trash Amendments. That the demonstration of the reduction in trash discharged from previous years be determined by measuring the mass and volume of trash actually removed by the control measure and/or discharged from the MS4.</p>		<p>The monitoring and reporting provisions in the proposed Trash Amendments are minimum requirements that must be included with the implementing permits. As there will be many unique implementation approaches, the monitoring and reporting approach has been written to provide maximum flexibility to demonstrate compliance with the prohibition of discharge for trash. Many of the recommendations made by the commenter are more appropriate for site specific permits (e.g. inspection after storm events of &gt;0.25 may be too infrequent for southern California municipalities or too frequent for Northern California municipalities). See also Response to Comment 4.6.</p> <p>With regards to the recommendation to determine the mass and volume of trash, the proposed Trash Amendments have been revised to provide greater clarity about how a permittee should demonstrate full capture equivalency. One included method is to determine, as recommended by the commenter, the amount of trash removed by the control methods. Other alternatives may also be appropriate as noted in the definition of full capture system equivalency. See also Response to Comment 73.1.</p>

Comment Letter	Comment	Recommended Language	Response
76.12	<p>The Los Angeles RWQCB has certified/recognized 8 devices and the San Francisco Bay RWQCB staff certified 35 devices as Trash Full Capture Systems. A number of vendors have developed devices that are similar to those that have been certified by the LARWQCB and it is not clear from the LARWQCB's web site whether these additional devices have been reviewed to determine compliance with the Regional Board's August 2004 Procedures and Requirements for Certification of BMPs for Trash Control. A number of studies have been conducted in Los Angeles, San Diego and Bay Areas and by Caltrans that raise significant questions on whether many of the devices certified by the Los Angeles and San Francisco Bay RWQCBs actually meet the full capture system definition and whether the definition is actually achieving significant reductions in trash discharged. 1. The Staff Report should identify the devices that have been certified/recognized by the LARWQCB. The devices certified by the San Francisco Bay RWQCB should not be listed or recognized in the Policy Amendments as meeting the definition of a full capture device. 2. The process and definition/criteria for certification of a device must be updated in the Trash Amendments</p>		<p>For statewide consistency, 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 Water Board would remain certified for use by permittees as a compliance method. In addition, the State Board finds that is unreasonable to expect municipalities to remove and replace full capture systems that have been identified as effective by the Regional Board in Appendix I of the Bay Area-wide Trash Capture Demonstration Project, Final Project Report (May 8, 2014). As such, devices identified in this report and already installed are considered to satisfy the requirements of the Trash Provisions. Certification of new devices would follow a similar process established by the Los Angeles Water Board with certification approvals directed to the State Water Board. The State Water Board does not think it is necessary to convene a panel of experts to discuss full capture systems. See also Response to Comments 76.19.</p> <p>The commenter asserts that many of the systems certified by the Los Angeles and San Francisco Bay Water Boards fail to meet the performance requirements for full capture certification. However, the commenter does not support those assertions with verifiable data or provides references that contradict the assertion. Specifically, the commenter asserts that the Los Angeles Area Studies and monitoring misreported the efficacy of catch basin inserts but provides no data to substantiate that claim. The commenter asserts that the Los Angeles Water Board certified ineffective gross solids removal devices and references two reports as support. However, the first report concluded (as noted within the comment letter) that, "The device generally met the requirement that litter items with dimensions larger than 0.25" (5mm) are retained within the device." The other report identified as supporting this assertion was for an "inline screen – configuration 3, which is different device than the Inclined Screen – Configuration 1 (IS1 SR-170) that was certified by the Los Angeles Water Board and is not relevant. With regards to the San Francisco Estuary</p>

Comment Letter	Comment	Recommended Language	Response
76.13	<p>(see comment #19).</p> <p>3. The devices that have been certified/recognized by the Regional Boards should be critically reviewed to determine whether they meet the updated criteria and a revised list must be published.</p> <p>4. The SWRCB should convene a panel of experts with experience in the selection, design, construction, operation, monitoring and maintenance of trash capture devices to assist in updating the definition/criteria for certification of a device and determination whether existing devices comply with the updated criteria. Suggestions for this panel include: Lesley Estes – City of Oakland, Dr. Gary Minton - consultant, Ed Othmer – URS Corp, Dr. Bob Pitt-consultant, Gary Lippner – DWR and formerly with Caltrans, representatives from City of Sunnyvale or San Jose that have actually performed maintenance of devices. 5. The SWRCB needs to develop a strategy to address those areas that are now served by devices that were once considered to be Trash Full Capture Devices, but no longer comply with the revised definition</p>		<p>Partnership, the State Water Board disagrees that requiring regular cleaning and maintenance establishes a “major problem with the devices, and notes that while the commenter claims that the Partnership withheld critical information about the reliability and performance of full capture systems, the commenter does not provide any support to this assertion. Finally, the State Water Board agrees that the San Diego study determined that several alternative trash capture devices did not perform sufficiently to meet performance objectives identified in the study. However the purpose of the study was not to support full capture system certification, but to determine performance and cost effectiveness at a specific location to inform decision makers the most cost effective approach to consider for City-wide implementation. This is exactly the type of considered implementation envisioned by the proposed Trash Amendments.</p>
	<p>1. Correct Consideration 3 On page 71 to reflect actually was found in the Los Angeles area.</p> <p>2. Define Low Density residential as &lt;8 units/acre and High Density</p>		<p>Comment noted. The State Water Board took this consideration 3 to reflect the Los Angeles area. The intention of the Trash Amendments is to focus trash controls on a subset of areas with a MS4 that generates high amounts of trash. Based on the feedback from the Focused Stakeholder</p>



Comment Letter	Comment	Recommended Language	Response
	Residential as >8 units/acre and mobile home developments.		Meetings, the State Water Board does not consider it is necessary to modify the units per acre for high density residential. However, if the permitting authority determines that certain areas of low density residential are generating substantial amounts of trash, the proposed Ocean Plan Amendment in section III.L.2.d (IV.A.3.d of Part I ISWEBE) allows the permitting authority to require Track 1 or Track 2 compliance in those areas. Alternatively, low density residential land uses could be included as an "alternate equivalent land use" as identified in the definitions to the Trash Amendments.
76.14	List the items of trash in section 4.1.2, page 65, Appendix A.1, page A-1, Appendix A.II, page A-11.		The State Water Board agrees with this list of trash found in storm water runoff and have added this list to Appendix A of the Staff Report. These items of trash fall under the definition of trash, and thus will not be explicitly stated in the definition.
76.15	Low density residential land uses contribute significant trash loadings on an annual basis and should not be excluded from implementation of trash control measures and should be considered as a "priority land use".		A central element of the proposed Trash Amendments is a land-use based compliance approach to focus trash controls to areas with high trash generation rates. As discussed in Section 4.5 of the Staff Report, the State Water Board finds that priority land uses should include commercial, industrial and high density residential land uses. While not specified as a priority land use, if the permitting authority determines that certain areas of low density residential are generating substantial amounts of trash, the Ocean Plan Amendment in section III.L.2.d (IV.A.3.d of Part I ISWEBE) allows the permitting authority to require Track 1 or Track 2 compliance in those areas. Alternatively, low density residential land uses could be included as an "alternate equivalent land use" as identified in the definitions to the Trash Amendments.

Comment Letter	Comment	Recommended Language	Response
76.16	<p>That the staff report qualify the statements on page 71 and A-16 by indicating that there are concerns regarding the value of trash generation rates developed by BASMAA because of the sample collection locations were not representative of actual land uses, questionable effectiveness of the sampling devices to capture representative samples of trash in storm water runoff and sample collection protocols.</p>		<p>The State Water Board does not agree that this change is necessary. While there are always challenges to monitoring, the BASMAA Baseline Trash Generation Rate Project did aid to establish a baseline to demonstrate progress towards trash loads reduction and categorize jurisdictions to high, medium, and low trash generating area. This work has continued to be further refined by current projects, like the Prop 84 Grant Tracking California's Trash, and has allowed for adaptive management with the next iteration of the MRP Permit.</p>
76.17	<p>The Reasonable Foreseeable Methods of Compliance (pg. 83-86) should be completely rewritten to provide a correct description of storm drainage systems and the structural devices and institutional controls used to control the discharges of trash.</p>		<p>The commenter asserts that the description of the storm drain system is insufficient but does not specify in what way the description is insufficient in identifying the reasonably foreseeable means of compliance. See also response to comment 76.18. The State Water Board agrees that the Santa Clara Valley Urban Runoff Pollution Prevention Program's Trash BMP Tool Box provide a good discussion of treatment and institutional controls; however, State Water Board staff does not agree the Reasonable Foreseeable Methods of Compliance needs to be modified.</p>

Comment Letter	Comment	Recommended Language	Response
76.18	<p>Incorporate changes to the Treatment Control - Storm Drainage System section for Caltrans (page 83 Section 5.1). The flow criteria included in the definition of terms in the Trash Amendments specify that storm intensities shall be determined based on the NOAA's National Weather Service Point Precipitation Frequency Estimates (<a href="http://hdsc.nws.noaa.gov">http://hdsc.nws.noaa.gov</a>); that a 5-minute intensity shall be used for devices that are installed in storm drain inlets; and, that the intensity determined using the actual calculated Tc be used for sizing large capacity devices serving large catchments.</p>		<p>The State Water Board does not recommend changes, as the purpose of 5.1 of the Staff Report is not to document or establish minimum engineering requirements for storm drain systems, but simply to disclose in a largely qualitative way the reasonably foreseeable methods of compliance and some of the considerations that system designers may address. The commenters proposed addition does not substantively change the reasonably foreseeable means of compliance. In addition, definition of full capture systems does not preclude the use of NOAA's Point Precipitation Frequency Estimates recommended by the commenter.</p>
76.19	<p>Require that all devices installed in storm drain inlets be sized based on the peak 5-minute rainfall intensity determined by NOAA's Point Precipitation Frequency Estimates and that large capacity full capture devices be sized using the catchments Tc and NOAA's Point Precipitation Frequency Estimates.</p> <ul style="list-style-type: none"> <li>Prohibit the use of on-line trash control devices that allow peak flows to circulate or low through the trash storage area unless they are cleaned out after each storm event; or specify that trash control devices shall retain trash in an "off line" configuration where peak flows are bypassed upstream of the devices trash</li> </ul>		<p>The purpose of 5.1 of the Staff Report is not to document or establish minimum engineering requirements for storm drain systems, but simply to disclose in a largely qualitative way the reasonably foreseeable methods of compliance and some of the considerations that system designers may address. Please see Response to Comment 76.18.</p>

Comment Letter	Comment	Recommended Language	Response
	<p>storage area</p> <ul style="list-style-type: none"> <li>· Label storm drain inlets that require confined space entry for maintenance or replacement</li> <li>“Danger Permit Required - Confine Space Entry Do Not Enter” and provide confined space entry training and certification for installation and maintenance personnel. Capture residual solids and water used to power wash screens and the inlet and dispose in sanitary sewer or regulated disposal site</li> <li>· Coordination of inspections and mosquito abatement with mosquito abatement agencies</li> </ul>		
76.20	<p>The reference to hooded outlets should be deleted since it has not been cited by either Regional Board to be effective. Hooded or elbowed catch basins are used in San Francisco in their combined sewer system to control odors, but are not considered to be effective trash capture devices. San Francisco has placed oil in their catch basins to control mosquitoes. New York has reported high levels of replacement of hoods when damaged during vacuum truck cleaning operations. (Section 5.1.2, page 85)</p>		<p>The U.S. EPA's website recognizes that hooded outlets prevent floatable materials and trash from entering the storm drain system. Please refer to the available website at: <a href="http://water.epa.gov/polwaste/npdes/swbmp/Catch-Basin-Inserts.cfm">http://water.epa.gov/polwaste/npdes/swbmp/Catch-Basin-Inserts.cfm</a></p>
76.21	<p>Add a new subsection specific to curb inlet screens and include the suggested text that details experiences with use of curb inlet screens. (Section 5.1.2 page 85)</p>		<p>The State Water Board does not agree that the addition is necessary to the Staff Report. The purpose of section 5 is to identify reasonably foreseeable alternatives. However, this range of alternatives need not be exhaustive. In addition, based on the assessment of the commenter that the proposed</p>

Comment Letter	Comment	Recommended Language	Response
76.22	A new section should describe the various types of drop inlet devices and outlet connector pipe screen. (Section 5.1.2 page 85)		control mechanism may not be effective, this may not be a reasonably foreseeable means of compliance.  The State Water Board does not agree that the addition is necessary to the Staff Report. See Response to Comment 76.17 and 76.21.
76.23	The following addition at the end of the first paragraph (Section 5.1.3 page 86)– The City of San Jose analyzed the relative capital and operation/maintenance cost of small devices (connector pipe screens and automatic retractable screens at the curb) and the hydrodynamic separator capturing trash from an area of 1000 acres, over 10 and 20-year time frames, accounting for repair and replacement of small units and increases in labor costs. The City found that small devices were more economical in the first decade, but the cost advantage disappears in the second decade.		This has been revised in the proposed Final Staff Report.
76.24	Fresh Creek Technologies, Inc.'s End of Pipe Netting Trash Trap® was installed at Hamilton Bowl and the Regional Board's April 29, 2004 letter certified the device as a full capture system. It is not clear if that certification also applies to the two other models listed in this section. (Section 5.1.4 page 87)		All of the certifications by the Los Angeles Water Board are listed on this website: <a href="http://www.waterboards.ca.gov/losangeles/water_issues/programs/tmdl/full_capture_certification.shtml">http://www.waterboards.ca.gov/losangeles/water_issues/programs/tmdl/full_capture_certification.shtml</a>

Comment Letter	Comment	Recommended Language	Response
76.25	Additional information on Street Sweeping needs to be included in Section 5.2.2.		The State Water Board agrees that permittees will need to perform verification monitoring to ensure that street sweeping, in combination with other Track 2 implementation measures meet full capture system equivalency. It may indeed be beneficial for a permittee to conduct the type of study recommended to ensure cost effective implementation of institutional controls. However, the Trash Amendments are concerned with overall trash capture and establishment of full capture system equivalency, which may not necessarily require the types of studies of individual institutional controls recommended by the commenter. Therefore, the State Water Board does not agree that the addition is necessary to the Staff Report.
76.26	That the SWRCB increase funding for BASMAA's Prop 84 study and expand the scope of that study to include: § Effectiveness and costs of using the Captive Hydrology street cleaners used in Europe and in the United States to clean airport pavements § Modification of existing sweepers or development of a new model of sweeper that would prevent the gutter brushes from propelling trash into storm drain inlets and causing damage to curb inlet retractable screens § Determination of the actual amount and percent of trash that is included in debris removed by street sweepers		Increasing funding for BASMAA's study is beyond the scope of these proposed Trash Amendments.
76.27	Section 5.3, page 93 is unclear.		The focus of the section is on the installation, and operation and/or maintenance activities associated with the reasonably foreseeable methods of compliance with the proposed Trash

Comment Letter	Comment	Recommended Language	Response
76.28	The need to implement confined space entry requirements during installation, maintenance and replacement should be determined for each device that is certified as a full capture system.		<p>Amendments. The State Water Board does not agree there is a lack of clarity.</p> <p>Confined space entry requirements are established by the U.S. Occupational Safety and Health Administration (OSHA). More information can be found at the following website: <a href="https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_id=9797&amp;p_table=STANDARDS">https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_id=9797&amp;p_table=STANDARDS</a>.</p> <p>A description of the safety requirements for the operation and maintenance of various trash control structures is beyond the scope of these Trash Amendments.</p>
76.29	Contact Contech Engineered Solutions representative for information on the installation of CDS devices because it is significantly different than for installation of the GSRD.		<p>A detailed description of site specific installation requirements is beyond the scope of this programmatic analysis. However, the State Water Board has had communications with Contech Engineered Solutions. In addition, Contech Engineered Solutions provided a comment letter on these Trash Amendments, which did not include recommendations for changes to this section. Please see Comment Letter 43.</p>
76.30	The section on maintenance of treatment controls should list the types of equipment required to maintain the various types of devices and implement various institutional control measures.		<p>The State Water Board does not agree that the additional is necessary to the Staff Report. The type of equipment required to maintain the various types of devices will not affect the potential environmental impacts of the Trash Amendments.</p>
76.31	A section needs to be added that addresses the impacts to public health of full capture systems.		<p>Potential impacts to human health from structural controls and suitable mitigation measures are discussed in section 6.7 Hazards and hazardous materials.</p>
76.32	The section on catch basin clean frequency (page 107) should include information and indicate that the frequency of catch basin cleaning will be vary significantly depending on a catchments gross solids loadings, rainfall events and blockage of screens/filter media .		<p>The assumptions about cleaning frequency were estimates used to evaluate potential environmental impacts with regards air emissions. The change proposed by the commenter would double the proposed emissions, which would not be sufficient to exceed any identified thresholds of significance. The State Water Board does not agree that the addition is necessary to the Staff Report.</p>

Comment Letter	Comment	Recommended Language	Response
76.33	Change street sweeper vehicles to vacuum trucks. (page 107)		The proposed Final Staff Report has been revised.
76.34	Adjusting the screen size to prevent clogging would violate definition of a Trash Full Capture Device that specifies a 5mm – (0.197-inch) mesh size. Recommendation: delete “and adjusting screen size to prevent clogging.” (pg. 107)		The proposed Final Staff Report has been revised.
76.35	That the SWRCB staff find better information on the actual experience with the maintenance of netting systems. (page 110)		The referenced section is only supposed to describe the potential air quality impacts of identified alternatives for compliance and is not supposed to be a full description of maintenance requirements of netting systems.
76.36	The cleanout of vortex devices i.e. the CDS device provides the very least exposure to hazardous material to the public and maintenance workers of all devices that have been discussed in the staff report. The CDS devices are cleaned using vacuum trucks that suck out the trash and transport it in a closed chamber of the vacuum truck for disposal at a regulated disposal site. Conversely almost all of the other devices result in maintenance workers coming in direct contact with the gross solids. Gross solids captured in trash nets and GSRD unless enclosed in a structure are exposed to vectors and rodents that can transmit health hazards to the general public. Recommendation: The above		The State Water Board does not agree that the addition is necessary to the Staff Report. While the State Water Board agrees that worker safety is of paramount importance, the purpose of this section is identify potential impacts to the environment and the public at large from reasonably foreseeable means of compliance. Worker health and safety issues should be considered by the permittees during selection of structural and/or institutional controls.



Comment Letter	Comment	Recommended Language	Response
76.37	<p>information be included to page 132.</p> <p>These three devices are distinctively different in their design, operation and function and need to be better described in section 5 of the staff report. The storm drain inlet screens (trash deflectors) are placed in the curb face and are designed to prevent trash from entering the inlet, but leave trash in the street. Some are designed with retractable screens to prevent flooding when trash and vegetation block the screening mechanism. Storm drain inlet screens would not be effective with grate inlets. Storm drain inserts are devices installed in the inlet and are designed to capture trash within the inlet. Connector pipe screens are placed immediately ahead of the connector pipe and are designed to prevent trash from flowing into the pipe connecting the inlet to the main storm drain. Storm drain inlet screens are often used in combination with inserts and connector pipe screens to reduce the amount of trash that must be removed from the inlet, but require more frequent street cleaning and have been associated with flooding. Storm drain inlet inserts and connector pipe screens are prone to blockage with trash, vegetation and sediment resulting in the scouring of previously captured solids (Figures 2-8). The San Diego Storm Drain</p>		<p>The purpose of section 5.1 of the Staff Report is not to document or establish minimum engineering requirements for storm drain systems, but simply to disclose, in a largely qualitative way, the reasonably foreseeable methods of compliance and some of the considerations that system designers may address. The commenters proposed addition does not substantively change the reasonably foreseeable means of compliance. Further, potential street flooding due to clogged filters or screens is addressed in section 6.8.2. Therefore, no changes to the Staff Report are necessary.</p>

Comment Letter	Comment	Recommended Language	Response
76.38	<p>Inlet Study (ref 10) found that clogging of insert filter material/fabric/screens was a contributing factor for bypass of these devices. The adverse impacts can be partially mitigated by increasing the frequency of inspections and maintenance. Recommendation: That the above information be included in this section (page 135).</p> <p>The CDS devices are designed to safely bypass peak flows in excess of the units design capacity to prevent any threat of flooding while continuing to treat that portion of the runoff less than the design capacity. Trash is retained offline in the sump and separation chamber and it is physically impossible to bypass previously captured trash. Units have been constructed with collapsible weirs in areas where there is minimum hydraulic head required for operation of the unit. If trash or sediments were to accumulate in the separation chamber above the screen peak flows would simply be carried safely over the weir. This can be mitigated by periodic inspections to determine depth of solids in the sump and maintenance of the device when 85% of the sump is filled. Recommendation: Incorporate the above information in this section. (page 136)</p>		<p>Section 6.8.2 discusses the need for overflow/bypass structures and regular maintenance of vortex separation systems to prevent flooding. No changes to the Staff Report are necessary.</p>

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76.39	<p>The sound levels of vacuum trucks and street sweepers under full operation should be included in Table 10. Proposed control measures including increased street sweeping in residential areas as an alternative to the installation of full capture devices; as a result of the installation of storm drain inlet screens at the curb face; and, as an enhanced institutional control measure will increase the frequency and duration of noise impacts to a community. The impacts of noise from vacuum trucks will also increase as a result of the increase in frequency of maintenance of storm drain inlet inserts and inlets with connector pipe screens. These impacts could be mitigated by selecting larger capacity full capture devices that can be sited at more remote locations. (page 140, 147, 148)</p>		<p>Table 10 in Section 6.10 of the Staff Report is a list of common noise sources to give the reader an idea of the range of noises people may be subjected to. It is not a comprehensive list. Vacuum truck and street sweeper noise generation is expected to be similar to a diesel truck at 15 m (85dBA).</p> <p>The Staff Report acknowledges the increase in ambient noise levels due to increased street sweeping and the use of vacuum trucks. However, the Staff Report concludes that employing noise abatement measures and with the short duration of noise generation in any one area, noise impacts are expected to be less than significant. No changes to the staff report are necessary.</p>
76.40	<p>The installation and maintenance of most of the storm drain inlet inserts and connector pipe screens and the Canada screen require compliance with Calusa confined space entry requirements. A key element of that program requires advance notification of first responders of the planned entry so they can be prepared to respond to any incidents. This could have an impact on the ability of these agencies to</p>		<p>The Staff Report discusses coordination with police and fire services during construction and maintenance operations where street closures are involved (Staff Report Section 6.10). CalOSHA confined space entry requirements could be coordinated at the same time. Since municipalities are already subject to CalOSHA requirements for maintenance of their existing storm water systems, no new impacts on emergency services are expected due to the Trash Amendments.</p> <p>In addition to an institutional control for trash, street sweeping will continue to be considered a BMP for other storm water pollutants. Impacts for street sweeping over baseline conditions are expected to be less than significant since they</p>

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	<p>respond to other emergencies. Some devices like trash nets, GSRD and CDS do not require implementation of confined entry procedures and would not impact police and fire services. The impacts of increased street sweeping cannot be easily mitigated by changing the timing of the sweeping. The use of parking restrictions to increase the effectiveness of sweepers is a key control when effective sweeping can be performed. Sweeping must also be conducted at a frequency to remove trash that has collected in the gutter before it is carried into storm drain inlets by natural or vehicle caused winds. Recommendation: Incorporate the above information in this section. (Section 6.1.1.2 and pages 149 and 151).</p>		<p>are not expected to interfere with emergency services. No changes to the staff report are necessary.</p>
76.41	<p>The frequency of cleaning vortex systems depends on the accumulation of trash and depends on the catchments gross solids generation rates. The CDS device should be inspected after the first significant storm of the season and then periodically inspected during the rainy season and cleaned when the sump is 85% full. The frequency of cleaning of inlets with storm drain inlet inserts and connector pipe screens must be significantly increased as recommended in</p>		<p>The State Water Board agrees that proper operation of full capture systems will require the period cleaning, and this cleaning should be in done in concert with rain storms. If a full capture system is full with trash, the additional storm water and trash will either bypass the full capture system or cause flooding. Localized flooding risks should be minimized with timely full capture system inspections and cleanings.</p>

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	<p>Comment #32 if they are to be even marginally effective. The risk of increased street flooding is greater with storm drain inlet screens installed at the curb face when the screens are clogged with trash, sediment and vegetation (see Comment #21). Storm drain inlet inserts are less likely to cause flooding in the streets if they are designed with adequate bypass capacity: however, the City of South San Francisco in the 2012-2013 annual report reported that the West Coast Storm connector pipe screen caused flooding even when cleaned and maintained during storm events. (Section 6.12.2, page 152 and 157)</p>		
76.42	<p>The statement that the State Board does not direct compliance measures agencies choose or mitigation measures they apply is misleading because the Regional Boards have certified specific full capture devices and stated that compliance with NPDES permits is achieved through the installation and maintenance of the devices. LID controls and multi-benefit projects must be designed to meet the trash trapping and retention standard and have the hydraulic flow capacity required of full capture devices in order to be considered as equivalent.</p>		<p>The statement is not misleading. While the Los Angeles Water Board has certified, and the proposed amendment will certify systems as satisfying the requirements of the trash provisions, the State Water Board does not specify which systems a permittee must install. In addition, permittees have a broad range of alternatives through track 2, such as institutional controls, low impact development measures, or multi-benefit projects to employ to meet the standards specified. These alternatives do not require certification, but instead a demonstration of full capture system equivalency.</p> <p>The commenters suggestion that the State Water Board follow the lead of the guidance on establishing waste load allocations is noted, but as the commenter mentions, is not a requirement that need be met by the Trash Amendments. However, the specific elements outlined by the commenter (e.g. require iterative implementation and monitoring of BMPs to ensure compliance with water quality objectives) is essentially equivalent to what is require in the monitoring section of the</p>

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			<p>Trash Amendment and within the newly added language on demonstration of full capture system equivalency. In addition, Section III.L.5 of the Ocean Plan Amendment (Section IV.A.6 of Part I ISWEBE) requires the permittee to annually report to the permitting authority demonstrating installation, operation, maintenance of either Track 1 or Track 2 controls. Please see Responses to Comments 4.6 and 6.2.</p>
76.43	<p>1. The State Board at the public hearings should seek out reasons for the two different approaches, identify the constraints in developing and implementation of trash reduction programs and determine which approach can be more quickly implemented and include review should include an assessment of the State's staff resources required to implement different regulatory approaches.</p> <p>2. Accelerate the Time Schedule for Track 2</p>		<p>Through the Public Advisory Group, Focused Stakeholder Meetings, public workshop, and public hearing, the State Water Board has extensively collaborated and discussed with stakeholders the two different approaches and implementation programs. The dual alternative "compliance track" approach will provide flexibility to permittees to determine the most effective means of controlling trash while taking into consideration particular site conditions, types of trash, and the available resources for maintenance and operation. While a reduced time schedule would potentially provide results more readily, a ten year time schedule for both Track 1 and Track 2 will provide consistent and sufficient time for permittees to successfully achieve the prohibition of discharge and control trash discharges. See also Responses to Comments 10.12 and 42.12.</p>
76.44	<p>The Water Boards are also required to protect uses from "contamination" in addition to pollution and nuisance. Recommendation: Add "and contamination" after nuisance in Appendix A.1.</p>		<p>The State Water Board agrees that contamination is a consequence of pollution and nuisance.</p>
76.45	<p>Trash-Related Impacts to Public Health Beneficial Uses – (table 14, page A-8) Broken glass, sharp metal and hypodermic needles/syringes should be added to the health and safety hazards.</p>		<p>These hazards are part of safety hazards in Table 14 in Appendix A of the proposed Final Staff Report.</p>

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76.46	<p>Trash can have adverse impacts on the environment even before it enters waters of the state. Trash is present throughout a watershed in parking lots, streets, sidewalks, parks and other public areas and has community drawbacks. Quality-of-life issues related to environmental blight (including the presence of trash) are rooted in the “broken window” theory, postulated in the 1940s. The presence of trash is a sign of neglect and apathy taken root in a neighborhood fueling further deterioration often leading to other societal ills. Litter is often viewed as one of the earliest indicators that a neighborhood is in distress.<sup>26</sup> The use of curb face screens at storm drain inlets leaves trash in the streets until removed by institutional control measures such as street sweeping and their use should be considered as having potential adverse impact on the environment. (Section II, page A-11 and A-13)</p>		<p>Trash is one of the most widely recognized pollutants by the public, and it contributes to quality-of-life issues. The reduction of trash has been addressed in many avenues from litter laws to educational campaigns to treatment controls. The focus of the Trash Amendments is to reduce the amount trash that enters our water bodies, most specifically through the storm drains. The Trash Amendments do not pretend to provide the all-encompassing solution to trash problems in California. The Trash Amendments focus on creating the implementation framework to control the discharge of trash from areas with high trash generation rates with a multiple avenues for achieving compliance. One of the reasonably foreseeable means of compliance is full capture systems. With proper operation and maintenance, full capture systems will capture trash from storm water that would have been discharged into the receiving water body.</p>
76.47	<p>Did the Santa Clara Valley Urban Runoff Pollution Prevention Program actually perform Rapid Trash Assessments in the Los Angeles River Watershed and Los Angeles area lakes? (Page A-14)</p>		<p>This has been modified in the revisions to the proposed Final Staff Report.</p>

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76.48	<p>The discussion of the Caltrans Public Education Litter Monitoring Study should note that sediment was not measured during the study.</p> <p>The Bay Area baseline monitoring effort (ref 9) reported that trash is 17% by volume and 4% by weight of all solids in runoff and reported various components of trash – recommend that the pie charts be included in the staff report. (A-16)</p>		<p>Sediment is outside of the scope of the discussion and the Litter Management Pilot Study discussion is sufficient.</p>
76.49	<p>That the Economic Analysis be redone to include realistic and predictable 25-year life cycle costs.</p>		<p>The Economic Considerations assumed a 10% per year expenditure of capital costs in order to achieve full implementation in ten years. The life cycle of the full capture systems depend on many factors such as the type of full capture system, the adequate operation and maintenance of the system, and the unique characteristics of the place where is going to be installed. It is not logical to assume that all full capture systems would have a life expectancy of 25 years. At the same time, in year ten of the compliance schedule with Track 1, State Water Board staff estimated that out of the incremental \$3.95 per capita necessary to comply with Track 1 of the proposed Trash Amendments, \$0.75 (or approximately 19% of the total cost) would be spent on installing or replacing the capital cost.</p> <p>Based on that information and assuming a 25 year cycle, in year 25 an additional \$0.75 would need to be added to the \$3.2 operations and maintenance cost for a period of ten years until all full capture systems were replaced. This reasoning was not included in the analysis because the uncertainty of the life cycle cost of the full capture systems and low impact development projects on the overall estimates.</p>



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76.50	That actual cost be developed for maintenance of the CDS device.		The Economic Analysis assumed that the total cost of operations and maintenance for a full capture system is, on average, \$342 per unit. The cost is very sensitive to the type of device installed, the location of installation, and the labor costs associated with each community.
76.51	<p>Water Quality Objectives</p> <p>a. Add "or cause a contamination or hazard to public health".</p> <p>b. Add footnote "To achieve statewide consistency in the application of this objective the State Board intends to develop guidance to the regional boards for determining "acceptable" levels of trash in creeks, flood control drainage systems, wetlands, estuaries and the ocean that do not constitute a nuisance, adversely affect beneficial water uses and/or cause a contamination."</p>		No Change. Please see response to Comment 76.5. and 76.6
76.52	<p>Applicability</p> <p>a. A provision must be added that addresses systems /devices that could be certified during the interim period between now and when effective date of the Trash Provisions.</p> <p>b. A new provision (3) must be added that requires all systems/devices meet the new definition/criteria added in the Monitoring and Reporting Sections and Appendices.</p> <p>c. A new provision (4) must be added that addresses those devices that have already been certified and</p>		The State Water Board does not agree this additional language for the full capture systems is a necessary addition to the proposed Trash Amendments. Ongoing certification by the Los Angeles Water Board can continue until the Trash Amendments are effective. For response to comments on the definition, criteria and certification, see Responses to Comments 76.11, 76.12 and 76.19.

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76.53	<p>upon review have been found to not comply with the new definition/criteria.</p> <p>Permitted Dischargers Compliance  a. These sections need to address a MS4 permittees responsibility to address those dischargers where they have no regulatory authority yet those dischargers actually discharge to the MS4.</p>		<p>Trash is generated from multiple sources and transported to state waters through multiple mechanisms. The Trash Amendments focus on one of the pathways, namely storm water. Under the Trash Amendments, MS4 permittees would be required to address trash from high trash generating areas under the jurisdiction of the municipality, specifically the priority land uses. For high trash generating areas, the permitting authority can either require the MS4 implement trash controls or issue WDRs or waivers of WDRs to the land owner to implement appropriate trash controls. Please see Responses to Comments 6.5 and 6.6.</p>
76.54	<p>Permitted Dischargers Compliance  a. Add a footnote that "Municipalities may require and oversee the design, installation, operation and maintenance of full capture systems, other treatment controls and institutional controls on private property".</p>		<p>Comment noted. The Trash Amendments limit trash controls to areas of the permittee's jurisdiction. The storm drains are those under the jurisdiction of the permittee, thus public drains. See also Responses to Comments 25.1 and 42.3.</p>
76.55	<p>Additional High Trash Generating Land Uses  a. Add amusement parks, sports complexes, regional transit parking lots and flea markets.</p>		<p>These are specific land uses or locations that a permitting authority may determine to generate substantial amounts for trash and require compliance under Track 1 or Track 2. Please see Response to Comment 6.6.</p>
76.56	<p>Time Schedule  a. The permittee must do more than explain how the controls are "designed" to achieve the same performance results as Track 1. They must also be required to submit</p>		<p>Please see Response to Comment 18.6.</p>

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	<p>a monitoring program plan that documents the reduction in the discharge of trash achieving the same performance results as Track 1.</p> <p>b. Institutional controls such as street sweeping, storm drain cleaning, enforcement, etc. under Track 2 should be given a time schedule of two budget cycles or three years from the effective date of the proposed Trash Amendments to implement these control measures. Institutional controls such as ordinances could require 5 years to be fully implemented. Installation of Full Capture systems/devices installed in storm drain inlets should have a time schedule of 5 years. The 10-year compliance time frame in Track 1 and 2 must be limited to installation of large capacity Full Capture Devices serving large areas.</p>		
76.57	<p>Time Extensions</p> <p>a. This section should be deleted because dischargers have already been alerted as a result of the Public Notice and the draft Trash Amendments that they must develop and implement trash control measures.</p>		Please see Response to Comment 4.5.
76.58	<p>a. That the Installation, Inspection and Operation and Maintenance Programs in Comment #11 be adopted as minimum level of effort under Monitoring and Reporting and be included as Appendices to the</p>		As the compliance options vary among NPDES permits for storm water discharges, the monitoring and reporting options could be tailored to the type of compliance. The balance between the need for consistency and flexibility would be achieved through standardized objectives in the monitoring program. The proposed Trash Amendments could establish

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	<p>Trash Amendments.</p> <p>b. Include in the Definition of Terms a definition of "effectiveness".</p> <p>c. That the demonstration of the reduction in trash discharged from previous years be determined by measuring the mass and volume of trash actually removed by the control measure and/or discharged from the MS4.</p> <p>d. The monitoring results must be reported by individual land use categories.</p> <p>e. The mass and volume of trash reduced must be reported.</p> <p>f. This reporting requirement can be deleted if the volume and mass of trash discharge are reported.</p>		<p>minimum monitoring and reporting provisions, and Water Boards could include more extensive provisions in implementing permits. For Track 2 MS4 permittees, monitoring plans and reports must demonstrate the effectiveness of trash controls and the compliance with full capture system equivalency. The specifics of effectiveness, quantification unit of trash, and assessment by individual land use would be required at the discretion of the permitting authority. However, the State Water Board agrees that quantification by mass and volume, as well as reporting by individual land uses categories, is preferred for achieving the monitoring requirements. Please see Responses to Comments 4.6 and 6.2.</p>
76.59	<p>Enforcement Strategy</p> <p>a. An enforcement strategy must be added to the Trash Amendments that implements USEPA's guidance on establishment of TMDLs and NPDES permits. See Comment #42. This strategy must provide guidance to the Regional Boards on NPDES permit revisions and/or enforcement actions that would implement the iterative process by adding additional Full Capture Certified system/devices and trash control measures necessary to achieve compliance with water quality standard.</p> <p>b. The enforcement strategy must address the failure of currently certified systems/devices that do not</p>		<p>An iterative process is already identified in the Trash Amendments. See Responses to Comments 76.12 and 76.42.</p>

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76.60	<p>comply with the revised definition/criteria.</p> <p>Revised Definition/Criteria of Full Capture Systems. The following additional minimum criteria are recommended:</p> <p>§ Require that all devices installed in storm drain inlets be sized based on the peak 5-minute rainfall intensity determined by NOAA's Point Precipitation Frequency Estimates and that large capacity full capture devices be sized using the catchments Tc and NOAA's Point Precipitation Frequency Estimates.</p> <p>§ Prohibit the use of on-line trash control devices that allow peak flows to circulate or low through the trash storage area unless they are cleaned out after each storm event; or specify that trash control devices shall retain trash in an "off line" configuration where peak flows are bypassed upstream of the devices trash storage area</p> <p>§ Label storm drain inlets that require confined space entry for maintenance or replacement</p> <p>"Danger Permit Required – Confine Space Entry Do Not Enter" and provide confined space entry training and certification for installation and maintenance personnel</p> <p>§ Capture residual solids and water used to power wash screens and the inlet and dispose in sanitary sewer or regulated disposal site</p>		<p>The State Water Board does not recommend changes to the definition of full capture systems. See Response to Comment 76.18.</p>

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	<p>§ Coordination of inspections and mosquito abatement with mosquito abatement agencies</p> <p>b. The devices that have been certified/recognized by the Regional Boards should be critically reviewed to determine whether they meet the updated definition/criteria and a revised list must be published.</p>		
76.61	<p>Priority Land Uses</p> <p>a. Change "High-density residential" to "Residential". b. Add "regional transit parking lots".</p>		<p>The Trash Amendments will maintain high density residential as a priority land use, where other residential land uses and regional transit parking lots could be included as alternate equivalent land uses if determined to generate substantial amounts of trash to require trash controls. See also Responses to Comments 76.13 and 76.15.</p>
76.62	<p>Exemption from priority land use designation</p> <p>a. Add a provision (7) Exemption from a priority land use designation: An MS4 permittee may request from the applicable permitting authority the exemption of a designated Priority Land Use or specific areas of a Priority Land Use based on low trash generation rates determined by measurement of the mass and volume of discharged.</p>		<p>Please see Responses to Comments 10.1 and 10.7.</p>
76.63	<p>Trash</p> <p>a. Add to the definition those items that have been found in storm water runoff. See Comment 76.14.</p>		<p>Please see Response to Comment 76.14.</p>
77.1	<p>The California Coastal Commission support the proposed amendments to the Statewide Water Quality Control plans to control trash. The</p>		<p>The State Water Boards appreciates the support from the California Coastal Commission on the Trash Amendments. In particular, the State Water Board is proud of Coastal Commission's California Coastal Cleanup Day to highlight the</p>

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	<p>proposed amendments would play a critical role in helping to stem the flow of trash from inland waterways to the coast and ocean while improving the water quality and habitat and recreational values of those waterways.</p>		<p>trash problem in our waterways and inspire volunteers to participate and clean up their local waterways. The data from Coastal Cleanup Day has been instrumental for the Staff Report (see Final Staff Report Appendix A). The State Water Board looks forward to continued partnership with the Coastal Commission in the implementation of the Trash Amendments.</p>
78.1	<p>Corrections should be made in Section 9.4 Economic Considerations, page 173 the Draft Staff Report:</p> <p>" .... To comply with the proposed Trash Amendments, expenditures by Caltrans are estimated to increase by \$92 million annually in total capital costs and \$1 million for the first year and increasing to \$10 million per year after ten years for operation and maintenance of structural controls." It should be noted that the estimate above for Caltrans excludes total capital costs associated with trash reduction requirements specific to San Francisco Bay Regional Board requirements (Attachment V of our Permit) or the trash reduction requirements specific to Trash TMDLs in the Los Angeles Regional Board region (Attachment IV of our Permit).</p>		<p>The State Water Board appreciates corrections to the estimated expenditures for Caltrans to comply with the proposed Trash Amendments. While the State Water Board recognizes the estimated incremental costs for Caltrans are conservative, the information provided in the letter was unclear on how final estimated cost of \$92 million annually was calculated. The Economic Consideration conducted by State Water Board staff is based on several clearly defined assumptions. One assumption was for the average capital cost of a full capture system, \$800 per drop inlet. If the cost of a full capture system is more expensive, then the total cost will increase. The \$176,000 per acre proposed by Caltrans is a different type and scale of cost factor. This cost factor is derived for the estimated cost of compliance for TDMLs, which encompasses a host of pollutants including trash. For the Economic Considerations, the incremental cost of compliance needs to be based on the cost for trash controls, which would be a proportion of the \$176,000 per acre estimate. For the additional cost of "\$1 million for the first year and increasing to \$10 million per year after ten years for operation and maintenance of structural controls," it is unclear how those estimates were determined. Therefore, the proposed Final Staff Report was not modified with the proposed changes but the estimates provided by Caltrans will be considered.</p>
78.2	<p>Other inaccurate financial information related to Caltrans projected expenditures, as stated in Appendix C of the Draft Staff Report include the following: Appendix C,</p>		<p>The State Water Board agrees with the recommended change in Caltrans' current annual expenditures for ongoing maintenance activities for litter removal. The change was made in the proposed Final Staff Report. However, State Water Board disagrees with the other proposed changes on</p>

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78.3	<p>page C-2:            "Caltrans currently spends over \$80 million annually for ongoing maintenance activities for litter removal. To comply with the proposed Trash Amendment, over a ten-year period, the annual expenditure by Caltrans is expected are estimated to increase by \$92 million annually in capital construction costs assuming full capture retrofit. Maintenance of the full capture devices will increase approximately \$1 million for the first year and increasing to \$10 million per year after ten years."</p> <p>Appendix C, page C-4, Table 1. Summary of Estimated Compliance Costs of the Proposed Trash Amendments for NPDES Storm Water Permits:            "Population/size: 50,000 lane-miles"            "Baseline of Current Trash Control Costs:            "Total and Per Capita Per Year: \$80 M per year"            "Estimated Incremental Cost for Track 1:            "Total and Per Capita Per Year:            "Total Capital Cost: \$92 M annually            "Operation &amp; Maintenance: \$1M for year 1, increasing to \$10 M per year after</p>		<p>estimated annual costs. (Final Staff Report Appendix C, pp. C-2-4, C-15, C-18-19, and C-50-54.) For that, please see Response to Comment 78.1.</p> <p>The State Water Board agrees with the recommended change in Caltrans' total lane miles. The change was made in the proposed Final Staff Report. (Final Staff Report Appendix C, pp. C-2-4, C-15, C-18-19, and C-50-54.) Additionally, please see Responses to Comments 78.1 and 78.2.</p>



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	ten years"		
78.4	Appendix C, page C-15: "Caltrans spends approximately \$80 million a year on "litter removal" (i.e., trash control), or approximately \$1,600 per lane-mile."		The State Water Board agrees with the recommended changes, which are reflected in the proposed Final Staff Report. (Final Staff Report Appendix C, pp. C-2-4, C-15, C-18-19, and C-50-54.)
78.5	Appendix C, page C-18-19: "Caltrans annually spends \$80 million on litter removal. This is approximately 6.7% of their \$1.2 billion maintenance budget for FY 13-14. Caltrans manages over 50,000 lane-miles of roadways; owns and operates 265 state highways; and owns and manages 12,300 bridges and 665 buildings and other structures. Caltrans spends an average of \$1,600 per lane-mile on litter removal."		The State Water Board agrees with the recommended changes, which are reflected in the proposed Final Staff Report. (Final Staff Report Appendix C, pp. C-2-4, C-15, C-18-19, and C-50-54.)
78.6	Appendix C, page C-50: "8. POTENTIAL COSTS FOR CALTRANS Caltrans' Division of Maintenance expenditures on "litter removal" is \$80 million per year. According to Caltrans, there are approximately 50,000 lane miles (approximately 15,000 centerline miles) in California. Therefore, the current cost of litter removal is, on average, \$1,600 per lane mile per year."		Please see Responses to Comments 78.3, 78.4, and 78.5.

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78.7	<p>Appendix C, page C-50-51:</p> <p>"For unit costs, we assumed the same installation (176,000/acre treated) capital construction. We estimated that there are approximately 18 catch basins per mile in rural areas and 36 catch basins per mile in urban areas. Because significant trash generating areas are more likely to be in urban areas, we used the higher estimate to calculate the number of catch basins needing full capture devices. Under these assumptions, estimated incremental capital costs for Caltrans would be approximately \$92 million annually and incremental annual operation would be approximately \$1M for year 1 and increasing to \$10M per year after ten years (Table 30)."</p>		Please see Responses to Comments 78.1 and 78.2.
79.1	<p>As you may know, Contra Costa County is split between two regional water quality control boards (Region 2 – San Francisco and Regional 5 – Central Valley) but it was decided early on that the Cities of Brentwood, Oakley, and Antioch as well as the eastern portion of Unincorporated Contra Costa County would have their municipal stormwater permit largely mirror the MRP. As such, both permits include Provision C.10 for trash load reduction. The only difference in the two Provision C.10 requirements is that the East</p>		Please see Response to Comment 7.3 and 64.2.

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	<p>Contra Costa Permittees have an extra year to report on trash load reduction. MRP Permittees were supposed to demonstrate a 40% reduction in trash load by July 1, 2014 whereas East Contra Costa Permittees have until July 1, 2015 to meet that reduction number. And the target for 70% and 100% are also separated by a year. Is this an issue that needs further addressing or just clarifying language in the footnote?</p>		