



COMMUNITY DEVELOPMENT SERVICES

PLANNING & BUILDING

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Date: October 31, 2018
To: El Dorado County Board of Supervisors
From: Brendan Ferry, Principal Planner
Subject: **California Trash Policy Implementation Plans**

Title/Department Recommendation

Community Development Services, Planning and Building Department, recommending the Board:

- 1) Receive a presentation on the County's Implementation Plans to comply with the State of California Trash Policy;
- 2) Endorse staff's recommended Track 2 strategy to demonstrate full trash capture equivalency for both the West Slope and the Lake Tahoe Basin to comply with the Trash Policy; and
- 3) Direct staff to send the required submittals to the State Water Resources Control Board and the Lahontan Regional Water Quality Control Board by December 1, 2018.

Funding

Garbage Franchise Fees, National Pollutant Discharge Elimination System – General Fund and Road Fund

Discussion/Background

The State Water Resources Control Board (SWRCB) adopted an Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California. Together they were collectively termed as the "Trash Amendments" – and are now called the Trash Policy. The Trash Policy will eventually be incorporated into all National Pollutant Discharge Elimination System (NPDES) Permitting programs including but not limited to Phase I and Phase II Municipal Permits, Construction General Permits (CGP), and Industrial General Permits (IGP).

The Draft Trash Amendments and Substitute Environmental Documentation (SED) were released for public review in June 2014. Staff submitted written comments on the Trash Amendments during this period to the SWRCB. On December 31, 2014 the SWRCB released a Notice of Revised Documents stating the proposed Final Trash Amendments were available online for review. Subsequently, the Office of Administrative Law

approved the amendments in December 2015 and the Environmental Protection Agency (EPA) approved them on January 12, 2016.

After this time, the SWRCB worked internally to determine how to roll out the Trash Policy requirements – with little involvement of their permittees. Finally, on June 1, 2017 the SWRCB sent the County a 13383 Order for the West Slope and the Lahontan Regional Water Quality Control Board (RWQCB) sent the County a 13383 Order for the Lake Tahoe Basin requiring us to select compliance Track 1 or Track 2 by September 1, 2017.

The time schedule for achieving full compliance with the Trash Policy is ten years following the effective date of the first implementing NPDES permit or fifteen years after the effective date of the Trash Policy adoption – which is approximately December 2030. The Trash Policy seeks completion of interim milestones (i.e. average trash load reductions of approximately ten percent (10%) per year). Also, any new development within a priority land uses (PLU) area must be built to immediately comply with the Permittee's selected Track.

On August 29, 2017, the Board of Supervisors directed staff to select Track 2 as the compliance option for both the West Slope and the Tahoe Basin portions of the County. Since that time, the County hired consultant services (NCE) to assist with preparing the required Implementation Plan for the West Slope. Staff produced the Implementation Plan for the Tahoe Basin internally.

West Slope Implementation Plan

The purpose of the Implementation Plan is to satisfy the requirements of the 13383 Order, which requires Track 2 permittees to submit a plan by December 1, 2018 for SWRCB and/or RWQCB approval. The plan is required to describe the proposed analysis, approach, and control measures used to address trash over the anticipated compliance period and specifically include the following:

- A description of the combination of controls selected by the Municipal Separate Storm Sewer Systems (MS4) permittee and the rationale for the selection (Section 3.0 of the plan)
- The rationale for how the combination of controls is designed to achieve Full Capture System Equivalency (FCSE) (Section 3.0 of the plan)
- The rationale for how FCSE will be demonstrated (Section 4.0 of the plan)

Section 5.0 of the plan presents an implementation timeline. County staff anticipates adaptively managing the trash compliance approach and that the actions presented in the plan may change over the compliance period if the County identifies more efficient or better-suited actions.

Prior to identifying and selecting appropriate control measures for trash, the County identified and mapped PLUs, conducted baseline assessments and assigned a trash generation category to each PLU. Land use codes that met PLU definitions were included on the PLU map and then further verified using the most recent aerial imagery

and a field visit to select PLUs. The field visit was conducted on February 28, 2018 where a randomized subset of PLUs and non-PLUs were observed to verify accuracy of the PLU data. Areas that were zoned as a PLU but not developed as a PLU, or were undeveloped, were removed from the PLU map. In addition, PLUs that did not drain to the County MS4 were removed from the map. Through this analysis the County identified 2,069 total acres of applicable PLUs (Appendix C of plan). The majority of the PLUs are commercial properties, which account for over half of all PLU acreage, followed by industrial and high-density residential properties.

The next step in planning for Track 2 compliance was for the County to assess trash generation in all PLUs through baseline assessments. To conduct the baseline assessments the County followed the SWRCB approved Trash Assessment Minimum Level of Effort (TAMLE) method and associated on-land visual trash assessment (OVTA) protocols, referenced in the 13383 Order. The County completed two assessments, one in the wet season from May 1-4, 2018, and one in the dry season from July 31 – August 2, 2018. All PLUs were visited during each assessment. The final baseline map reflected the highest (most conservative) trash generation score recorded at a PLU between the two assessments. Of the 2,069 total acres, 1,649 acres were in the low category, 369 acres were in the moderate category and 51 acres were in the high category. No PLUs were in the very high category.

The County is planning to implement a combination of Full Capture Systems and Functional Equivalent (FE) actions to address trash in moderate and high trash generating areas. Staff anticipates implementing one large full capture device as part of the Diamond Springs Parkway Project near the Materials Recovery Facility. It is also possible that a handful of smaller drop inlet partial capture devices could be installed at key locations.

The County developed a comprehensive list of nearly 30 types of FE actions prior to evaluating and selecting a targeted set for inclusion in the plan. Evaluation criteria included effectiveness (trash reduction given observed trash sources), already existing programs, existing infrastructure, cost effectiveness, literature review, and County resources required to implement. These actions have been demonstrated to be effective in other jurisdictions. Recognizing that some FE actions will be deployed jurisdiction wide while others are more site specific, the County plans implementation using a three-pronged approach:

1. Jurisdiction-wide FE actions (i.e. increased education at all levels, antilittering campaigns, etc.)
2. Strategic cleanups (i.e. increased street sweeping, litter abatement crews, etc.)
3. Partnership with private landowners (i.e. increased education and outreach, incentive based programs and/or increased ordinance development and enforcement).

We anticipate these actions will treat at least 380 PLU acres and aim to reduce approximately 2,562 gallons of trash per year. Additional detail on this is available in the Implementation Plan.

Track 2 MS4 permittees are required to develop and implement annual monitoring to demonstrate effectiveness of the selected combination of controls as well as compliance with Full Capture System Equivalency (FCSE). The County plans to perform progress OVTAs to annually assess the effectiveness of FE actions and demonstrate FCSE. Progress assessments will be performed using the same OVTA protocols used to identify baseline trash generation. The County anticipates the progress assessments will occur at randomized locations that represent at least 10% of the PLU areas treated with FE actions.

The County will evaluate the combination of controls during the annual reporting process and adjustments to the Track 2 compliance program will occur as needed. If necessary, additional controls will be implemented to support compliance with the Trash Policy. The Implementation Plan may also be modified to remove or adjust FE actions and/or modify proposed FCS locations if they are found to be ineffective by the progress assessments.

Track 2 permittees must comply with the Trash Policy within 10 years of the effective date of the first implementing permit, or no later than 15 years from the effective date of the Trash Policy. The Office of Administrative Law approved the Trash Amendments on December 2, 2015. According to Appendix E of Part 1 of the Trash Amendments, the first implementing permit will require permittees to demonstrate achievement of interim milestones such as average load reductions toward full implementation.

Over the next three to four years, the County anticipates implementing the following actions to work towards compliance:

- Submit Implementation Plan to the SWRCB for approval
- Continue planning for install of high flow capacity FCS
- Plan and Implement FE Actions
 - Identify participating PLUs and associated property owners
 - Develop and distribute brochures, direct mailings to property owners, billboards, event booths, traditional and social media campaigns
 - If necessary, implement level 2 (incentive-based program) and level 3 (ordinance and enforcement) FE actions.
 - Strategically increase street sweeping, litter abatement crews or volunteer/community pickups, and additional classroom outreach
- If any FE actions are implemented, conduct progress assessments at approximately 10% of the PLU areas impacted and update trash reduction data
- Potentially install catch basin insert FCS devices at proposed locations
 - Confirm locations and preferred device type with County engineering and maintenance staff
 - Contact vendor for quote and verification
 - Vendor installs at final locations

Following 2021, the County will assess progress toward compliance and set tasks and timeframes for the remaining compliance period based on the trash reductions achieved

to date, progress and challenges observed from implementing FE actions and maintaining FCS, and lessons learned internally and from other permittees.

Tahoe Implementation Plan

The Tahoe Implementation Plan will be submitted for the same reason as described above for the West Slope. However, the plan is significantly more simplified because, 1) the County does not have many PLUs in the Tahoe Basin, 2) the existing PLUs primarily drain to Caltrans right of way, 3) there is not a significant trash problem, and 4) the County has constructed many water quality best management practices that collect pollutants, including trash, from the County's jurisdiction.

Many of the same protocols for mapping and assessing that were described above were performed for Tahoe. All PLUs that drain to the County's MS4 are in the low trash generation category. Therefore, no additional FE actions are required in Tahoe. The County will perform OVTA inspections every year to demonstrate that those PLUs remain in the low category. Those results will be reported in the annual report. Should PLUs fall out of the low category, County staff will utilize similar tools described above to reestablish the low rating.

Other Considerations

As active permittees of the CGP, IGP, and Phase I and II Municipal Permits, staff anticipates the implementation phase of the Trash Policy could present many physical and financial challenges for the County. Compliance may increase current program implementation costs among many County Departments and could divert resources, at the Board's discretion, from other core County programs and services in order to remain in compliance. Additionally, flooding, snow and other traffic hazards for the general public and maintenance staff present significant safety concerns.

The implementation plans were crafted to select compliance strategies that were not only effective, but also as cost effective as possible. In order to pay for those compliance strategies, staff is exploring various funding options. Full capture devices could cost the County many millions of dollars. However, by using more proactive and targeted functionally equivalent options, like the County's solid waste technicians, staff believes that the County can achieve compliance at a significantly lower cost.

Alternatives

The alternative is noncompliance. The County could choose to wait to see if this Policy gets challenged in court by another permittee. However, there are mandatory minimum penalties that are possible for noncompliance. Pursuant to Section 13385 of the CA Water Code, those penalties could go up to \$10,000 per day of the violation plus an additional liability of \$10 per gallon for each gallon over 1,000 gallons where there is a discharge that is not cleaned up.

Prior Board Action

Legistar # 15-0211 (January 9, 2018, No. 26)

Other Department and/or Agency Involvement

Department of Transportation; Environmental Management Department

Financial Impact

Potentially significant over the next 10 - 12 years. Staff estimates at least two additional FTEs will be needed to implement and comply with this new Policy. Additional general fund resources may be needed. The resource needs will be better understood as the implementation plan is realized.

Clerk of the Board Follow-up Actions

N/A

Strategic Plan Component

Healthy Communities, Public Safety, Good Governance, Infrastructure

Contact

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