

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (Derek Beauduy)
MEETING DATE: March 11, 2020

ITEM: 7

SUBJECT: **California Department of Transportation, Compliance with Cease and Desist Order No. R2-2019-0007 Implementing Trash Requirements of the Statewide Stormwater Permit, Order No. 2012-0011-DWQ, as amended, NPDES Permit No. CAS000003, Regionwide**

CHRONOLOGY: February 13, 2019 – Cease and Desist Order No. R2-2019-0007 adopted

DISCUSSION: This is an update on the progress the California Department of Transportation (Caltrans) has made toward meeting the requirements of [Cease and Desist Order No. R2-2019-0007](#) (Order), which requires Caltrans to control trash discharges from its right-of-way (ROW) to receiving waters, including creeks and the Bay. The Order provides enforceable acreage benchmarks and a schedule for their achievement, as well as planning and reporting requirements sufficient to demonstrate that Caltrans will substantially control trash discharges from its ROW by 2026, and fully control those discharges by 2030.

To date, Caltrans has identified actions or projects to control trash from over 2,000 acres of ROW to meet the June 30, 2020, benchmark. This includes over 1,600 acres of ROW treated by structural trash control measures located on municipal property (local projects) and funded by either Caltrans or the municipality; over 100 acres of Caltrans ROW retrofitted with structural trash control measures; and 500 acres to be controlled as part of an enhanced maintenance pilot project.

Caltrans submitted its first Annual Report and trash generation rate map on October 1, 2019. The Annual Report described the trash control planning and actions implemented by Caltrans since adoption of the Order. The Annual Report showed Caltrans is in the early stages of establishing its trash control implementation program, with minimal actions to report.

Caltrans submitted its first trash control workplan on December 27, 2019. The projected trash control outcomes of the workplan are summarized in Table ES-1 (Appendix A).

The Order requires the workplan to identify and prioritize short-term and long-term planning, funding, and implementation commitments for trash reduction controls sufficient to meet the Order's trash reduction benchmarks and compliance dates. Specifically, the workplan must include:

- A prioritization strategy for all significant trash generating ROW to guide timely, efficient, and effective trash control implementation actions;
- A schedule and list of planned structural and non-structural trash control projects and actions sufficient to meet trash reduction benchmarks in the next five years. Projects include those on- and off-ROW;
- A description and schedule of ongoing coordination with municipalities and local partners, including a schedule for projects to be completed in cooperation with them;
- A description of maintenance actions by the Department or municipal or local agency partners to ensure appropriate operation of full trash capture

devices;

- A description of how operation and maintenance will be funded, including a description of how funding is shared for cooperative projects;
- Identification of funding needs and the resources necessary to achieve the Order's trash reduction benchmarks and compliance dates. This must include, as necessary, identification of needed additional funding sources and commitments, and reporting on the steps Caltrans is taking to secure those resources.

On January 30, 2020, we issued a letter conditionally accepting the workplan (Appendix B). The conditional acceptance recognized the workplan's assurance that Caltrans would achieve the required 2020 benchmark of 2,000 acres controlled for trash. At the same time, it recognized that substantial additional work is needed for Caltrans to demonstrate it will achieve trash control benchmarks beyond 2020 because the workplan does not yet provide sufficiently detailed information regarding how Caltrans will ensure it has fully and timely evaluated available options—including off-ROW options—and how it will obtain sufficient budget and flexibility, including funding for operation and maintenance of trash control practices, to implement the most cost-effective options. Frequently, those options involve cooperative action with downstream municipalities off of Caltrans ROW.

The letter also documented Caltrans' agreement to submit a revised workplan by December 31, 2020—a year in advance of the revision required under the CDO—to address the current workplan's shortcomings. This revision will incorporate the new information being generated in 2020 that will inform prioritization of implementation actions and funding necessary to meet benchmarks beyond 2020. This new information will include Caltrans' assessment of the effectiveness of its enhanced maintenance pilot project and the feasibility of future cooperative implementation project opportunities with municipalities. We also expect Caltrans to identify additional funding and sources necessary to expand the enhanced maintenance program, install structural trash capture devices on all capital improvement projects where feasible, and fund installation and ongoing maintenance of structural controls on local projects that treat Caltrans ROW.

Other workplan revisions required by the conditional acceptance letter include updating the compliance actions summary table to include commitments to actions instead of to-be-determined placeholders, a better description and estimate of acres treated for planned retrofit projects, a more-detailed description and schedule of planned feasibility studies, a plan for assessing feasibility of pump station retrofits, results of structural and non-structural trash control pilot studies, results of coordination with municipalities to determine feasibility of local projects and schedule for local project implementation, identification of funding needs and resources necessary to meet the Order's trash reduction benchmarks and compliance dates.

At our request, municipalities under the Municipal Regional Stormwater NPDES Permit provided Caltrans with information on possible future local projects that could be implemented cooperatively to control trash from both Caltrans ROW and municipal property. These projects could result in over 4,500 acres of ROW controlled for trash. The workplan shows these local projects to make up a significant portion of the acreage Caltrans needs to meet the 2026 benchmark. Caltrans expects to complete a feasibility assessment of these opportunities by October 2020. Caltrans' cost estimates of trash control implementation actions show significant savings in partnering with municipalities to install full trash capture devices on municipality property. These installations can often be sited to

control trash from larger watershed areas as compared to when Caltrans installs on-ROW devices. We expect Caltrans to work closely with municipalities to thoroughly assess the feasibility of these opportunities and fund, schedule, implement, and maintain feasible projects to install trash controls.

Caltrans also submitted a feasibility study required by the Order in December 2019. That study focuses on on-ROW opportunities to implement structural trash controls over approximately 10 percent of Caltrans' Bay Area ROW. The study does not yet include information sufficient to allow staff to understand how Caltrans has fully evaluated opportunities in the area of ROW studied.

Caltrans has made a substantial effort to identify actions necessary to meet the Order's June 30, 2020, benchmark. However, significant shortcomings remain in the planning and funding needed to meet benchmarks after 2020. We are committed to continue working closely with Caltrans and Bay Area municipalities to identify projects and actions sufficient to meet Order benchmarks. It remains incumbent upon Caltrans to determine feasibility of, plan, schedule, and fund the needed projects and actions.

**RECOMMEN-
DATION:**

Information item – no action

FILE:

CIWQS Place ID 212806

APPENDICES:

- A – Summary of Cease and Desist Order No. R2-2019-0007 Requirements
- B – Table ES-1, Caltrans Trash Control Workplan, December 31, 2019
- C – Caltrans Trash Control Workplan, December 31, 2019
- D – Water Board Conditional Acceptance Letter, January 30, 2020

Appendix A

Summary of Cease and Desist Order No. R2-2019-0007 Requirements

Caltrans owns, operates, and maintains over 25,000 acres (about 40 square miles) of ROW in the San Francisco Bay Region. Cease and Desist Order R2-2019-0007 (Order) was issued to provide enforceable benchmarks and a schedule for implementation of trash controls to reduce trash discharges from the ROW as required by Caltrans' Statewide Stormwater Permit, NPDES Permit No. CAS000003, Order No. 2012-0011-DWQ (Permit), adopted by the State Water Resources Control Board on September 19, 2012, as amended, and State Water Board Resolution No. 2015-0019 (Trash Amendments), which amended the Water Quality Control Plans for Ocean Waters of California and Inland Surface Waters, Enclosed Bays, and Estuaries of California.

The Permit requires timely implementation of trash controls in high trash generating areas of Caltrans ROW. The Trash Amendments require the Department to prohibit 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 "in all significant trash generating areas by installing, operating, and maintaining any combination of full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls for all storm drains that capture runoff from significant trash generating areas."

The Order requires Caltrans to implement structural and non-structural trash controls to meet full trash capture equivalency in significant trash generating areas¹ of ROW as soon as possible, but no later than the following benchmark acreages and dates:

- 2,000 acres or more by June 30, 2020;
- 4,000 acres or more by June 30, 2022;
- 6,000 acres or more by June 30, 2024;
- 8,800 acres or more by June 30, 2026; and
- All additional significant trash generating areas of ROW identified by visual assessments conducted in 2021, 2025, and 2029 by December 2, 2030.

Caltrans must demonstrate compliance with the Order's benchmarks by installing and appropriately maintaining structural trash controls, such as full trash capture devices, and by implementing non-structural trash controls, such as increasing the frequency of street sweeping and roadside trash pickups to a level that achieves full trash capture equivalency. While non-structural trash controls typically must be completed on Caltrans ROW, structural controls can be installed within Caltrans ROW or, often much more cost-effectively, on nearby or adjacent municipal property through cooperative implementation projects.

The Order also details additional actions Caltrans is required to complete, with the goal of structuring a transparent planning and implementation process that will achieve the required

¹ Significant trash generating areas are defined in the Order as all Caltrans ROW areas rated as moderate or higher via Caltrans' on-land visual trash assessments, with the exception of moderate trash generation areas with vegetation demonstrated in studies to control the generated trash to less than significant levels. Caltrans has not yet demonstrated that vegetated moderate areas are not significant trash generating.

trash control. The framework is similar to that being implemented by Bay Area municipalities under the Municipal Regional Stormwater Permit (MRP; Order No. R2-2015-0049):

- Map the trash generation rates of its ROW, and update the map annually;
- Prepare and submit a Trash Control Implementation Workplan by December 31, 2019, and update it every two years;
- Study the feasibility of implementing trash controls across its ROW;
- Submit a report assessing at least 10 percent of significant trash generating ROW by December 31, 2019; at least 50 percent by December 31, 2021; at least 80 percent by December 31, 2023, and all significant trash generating ROW by December 31, 2025;
- Reassess the trash generation condition of all Low- and Moderate-rated ROW by December 31, 2021, 2025, and 2029; and
- Track and report on trash control implementation and maintenance by submitting Annual Reports starting on October 1, 2019.

Appendix B

Table ES-1, Caltrans Trash Control Workplan, December 31, 2019

In accordance with Section 11546.7 of the California Government Code, an electronic version of Table ES-1 has not been posted online as it does not meet specified accessibility standards. For an electronic copy of the table, please contact Derek Beauduy at derek.beauduy@waterboards.ca.gov.

Appendix C

Caltrans Trash Control Workplan, December 31, 2019

In accordance with Section 11546.7 of the California Government Code, an electronic version of the Caltrans Trash Control Workplan has not been posted online as it does not meet specified accessibility standards. For an electronic copy of the the workplan, please contact Derek Beauduy at derek.beauduy@waterboards.ca.gov.

Appendix D

Water Board Conditional Acceptance Letter, January 30, 2020

In accordance with Section 11546.7 of the California Government Code, an electronic version of the Water Board Conditional Acceptance Letter has not been posted online as it does not meet specified accessibility standards. For an electronic copy of the letter, please contact Derek Beauduy at derek.beauduy@waterboards.ca.gov.