



PUBLIC HEALTH  
LAW CENTER  
at Mitchell Hamline School of Law



American  
Lung Association.  
California



# **STORMWATER AND HEALTH: CALIFORNIA'S TRASH AMENDMENTS AND TOBACCO PRODUCT WASTE**

# WHO WE ARE

Law and Policy Partnership to End the Commercial Tobacco Epidemic (the Partnership)

The Partnership is a joint initiative of the American Lung Association and the Public Health Law Center to support tobacco control professionals in their work to end the commercial tobacco epidemic in California.







The Partnership provides free technical assistance, research, training, and analysis to help communities pass strong local tobacco ordinances that are both effective and legally sound.



# THE PUBLIC HEALTH LAW CENTER



# LEGAL TECHNICAL ASSISTANCE

-  Legal Research
-  Policy Development, Implementation, Defense
-  Publications
-  Trainings
-  Direct Representation
-  Lobby

## Equality



## Equity



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# STATE AND LOCAL COMMITMENTS



## WHAT ARE JURISDICTIONS COMMITTED TO?

- EU circular economy/plastic pollution directive ★
- Canada's single-use plastic policy (announced)
- California's Trash Amendments under Clean Water Act ★
- Minnesota's 25X25 policy
- Mississippi Watershed local authorities' 2020 commitment



# STATE AND LOCAL COMMITMENTS

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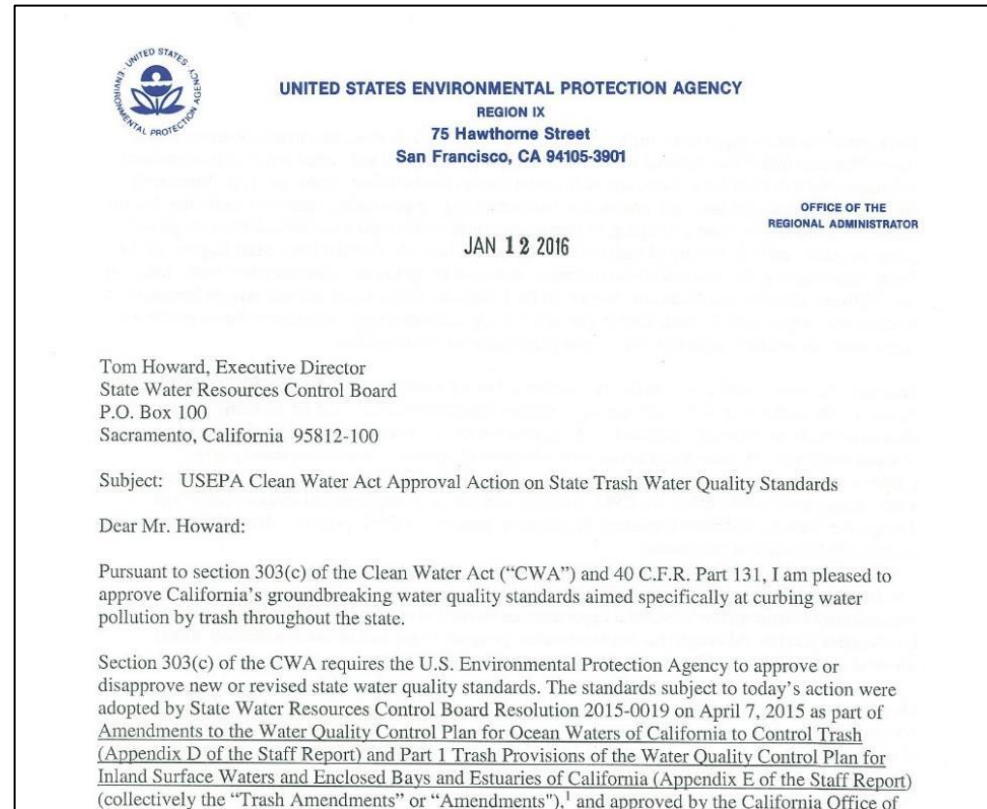
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# STATE AND LOCAL COMMITMENTS

## CALIFORNIA TRASH AMENDMENTS



# STATE AND LOCAL COMMITMENTS

## CALIFORNIA TRASH AMENDMENTS



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

OFFICE OF THE  
REGIONAL ADMINISTRATOR

JAN 12 2016

Dear Mr. Howard:

Pursuant to section 303(c) of the Clean Water Act (“CWA”) and 40 C.F.R. Part 131, I am pleased to approve California’s groundbreaking water quality standards aimed specifically at curbing water pollution by trash throughout the state.

disapprove new or revised state water quality standards. The standards subject to today’s action were adopted by State Water Resources Control Board Resolution 2015-0019 on April 7, 2015 as part of Amendments to the Water Quality Control Plan for Ocean Waters of California to Control Trash (Appendix D of the Staff Report) and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters and Enclosed Bays and Estuaries of California (Appendix E of the Staff Report) (collectively the “Trash Amendments” or “Amendments”),<sup>1</sup> and approved by the California Office of

# CALIFORNIA TRASH AMENDMENTS





# CALIFORNIA TRASH AMENDMENTS CAPTURE TECHNOLOGY



Photo Credit: California Tobacco Control Program (CTCP)

# CALIFORNIA TRASH AMENDMENTS ACTUAL WASTE STREAM



Photo credit: CA CTCP



# CALIFORNIA TRASH AMENDMENTS TOBACCO PRODUCT WASTE

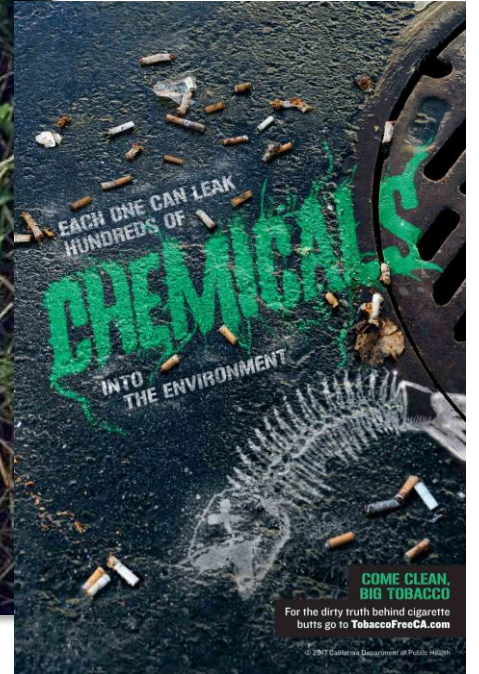


Photo credit: CA CTCP



# CALIFORNIA TRASH AMENDMENTS

## TOBACCO PRODUCT WASTE

- Studies show:
  - Tobacco waste [clusters](#) around where tobacco products are sold and used.
  - Low-SES schools [accumulate](#) different tobacco waste than high-SES schools.
  - This waste is highly [toxic](#), containing hundreds of carcinogens and nicotine – a potent poison long used as a pesticide.

# CALIFORNIA TRASH AMENDMENTS

- **Problem:** Difficulty and costs of capture
- **Potential solution:** Policies to prevent single-use waste

# CALIFORNIA TRASH AMENDMENTS

- Netting littered garbage is hard to do:



# CALIFORNIA TRASH AMENDMENTS

- Netting littered garbage is hard to do:
  - Use right capture technology for the drain system.
  - Avoid unintended circumstances (e.g. mosquito breeding).
  - Factor in staff time for cleaning and maintenance.

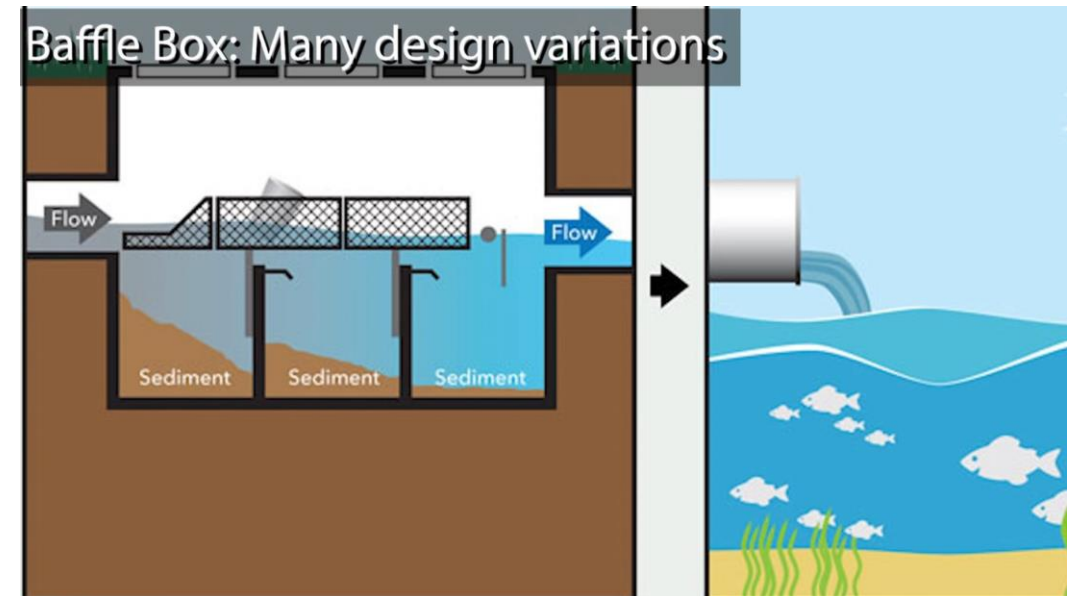


Photo credit: [Mosquito and Vector Control Association of California](#)

# CALIFORNIA TRASH AMENDMENTS

- Netting littered garbage is expensive

# CALIFORNIA TRASH AMENDMENTS

## NRDC REPORT

### WASTE IN OUR WATER: THE ANNUAL COST TO CALIFORNIA COMMUNITIES OF REDUCING LITTER THAT POLLUTES OUR WATERWAYS

- [2013 cost survey](#) from NRDC estimated trash capture costs for:

Ranking	City	County	2010 Census	Total Spending	Per Capita
1	Del Mar	San Diego	4,151	\$295,621	\$71.217
2	Commerce	Los Angeles	12,823	\$890,000	\$69.407
3	Redondo Beach	Los Angeles	66,748	\$2,278,877	\$34.142
4	Merced	Merced	78,958	\$2,300,000	\$29.129
5	Signal Hill	Los Angeles	10,834	\$303,900	\$28.051
6	Long Beach	Los Angeles	462,604	\$12,972,007	\$28.041
7	Malibu	Los Angeles	12,645	\$339,500	\$26.849
8	Dana Point	Orange	33,351	\$834,500	\$25.022
9	El Segundo	Los Angeles	16,654	\$390,000	\$23.418
10	Fountain Valley	Orange	55,313	\$1,225,687	\$22.159

*For a full list with more detail, see Table 14 in Appendix B: Data Tables.*



# CALIFORNIA TRASH AMENDMENTS

- [2020 economic simulation study](#) estimated\* TPW cleanup costs for:
  - Los Angeles: \$19,703,611
  - San Jose: \$7,066,021
  - San Francisco: \$4,195,867

Open Access Article

## Online Simulation Model to Estimate the Total Costs of Tobacco Product Waste in Large U.S. Cities

by  John E. Schneider <sup>1</sup> ,  Cara M. Scheibling <sup>1</sup> ,  N. Andrew Peterson <sup>2</sup> ,  
 Paula Stigler Granados <sup>3,\*</sup> ,  Lawrence Fulton <sup>3</sup>  and  Thomas E. Novotny <sup>4</sup> 

<sup>1</sup> Avalon Health Economics, Morristown, NJ 07960, USA

<sup>2</sup> School of Social Work, Rutgers University, New Brunswick, NJ 08901, USA

<sup>3</sup> School of Health Administration, Texas State University, San Marcos, TX 78666, USA

<sup>4</sup> School of Public Health, San Diego State University, San Diego, CA 92182, USA

\* Author to whom correspondence should be addressed.

\*mean values, see study for full range

# CALIFORNIA TRASH AMENDMENTS

- Limitations of these estimates:
  - 2020 Modeling was limited to cigarette butts, not all tobacco product waste.
  - Almost nobody is currently trying to capture all litter so NRDC figures also low.
  - Did not look at all California jurisdictions, data gap for smaller/more rural municipalities.

# CALIFORNIA TRASH AMENDMENTS

- Will costs go up with the Trash Amendments?
  - Trash Amendments will apply across the board and require capture of all waste.
  - January 2021 case, [Dept. of Fin. v. Comm'n on State Mandates](#), the CA court of appeals decided that:
    - Cities can be reimbursed by the state for required trash cans.
    - Cities had to pay for other costs like inspection fees, could bill to businesses as service charges.

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It seems likely that municipalities will be bearing most of the costs of these stronger environmental standards. Could pass costs along to responsible businesses.



# POTENTIAL POLICIES TO MINIMIZE TOBACCO PRODUCT WASTE

1. Environmental Justice procedures
2. Sales restrictions
3. Deposit system for certain tobacco products
4. Outdoor and comprehensive use restrictions  
(i.e. smoke-free areas)
5. Public nuisance



Photo Credit: CA CTCP

# 1. ENVIRONMENTAL JUSTICE POLICIES

## DIRECT COMMUNITY INVOLVEMENT/INPUT

Using state definitions of:

- “Environmental Justice”
- “Disadvantaged Communities”

Policies to consider:

- Impose public consultation processes to assure that Environmental Justice is not violated
- Empower people in Disadvantaged Communities to petition to suspend/revoke tobacco retail licenses in their neighborhoods
- Create a path for judicial review of permits

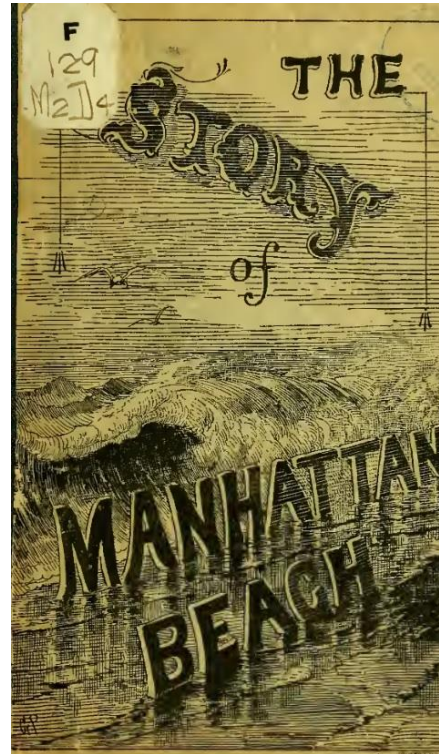


Credit: West Oakland Environmental Indicators Project (WOEIP) and APHA Environmental Justice Committee



## 2. SALES RESTRICTIONS YOU CAN'T LITTER WHAT YOU CAN'T BUY

- For example:
  - Manhattan Beach, CA –  
all/nearly all tobacco product sales prohibited in 2021
  - Some jurisdictions have prohibited all e-cigarette sales
- Possibly best policy to protect environment and users' health, broadest policy of all with upstream impacts



### 3. DEPOSIT SYSTEM RETURNING WASTE TO RESPONSIBLE RETAILERS

- Examples of:
  - CT, HI, IA, MA, ME, MI, NY, OR, VT, bottle bills that require retailers to collect deposit and accept waste
  - CA has a regulatory fee for bottles that operates similarly, state collects the fee
- A potential deposit system for e-cigarettes or product packaging (e.g. chew canister), forcing **retailers** to properly dispose of selected TPW. (By contrast, regulatory fee could trigger **Prop. 26**.)





## 4. OUTDOOR USE RESTRICTIONS DENORMALIZING USE AND LITTERING

- Local jurisdictions can extend smoke-free policies to sidewalks, outdoor dining/patios, city parks, youth-oriented facilities
- Flights, universities, and other types of campuses have “tobacco free” policies



# 5. PUBLIC NUISANCE PROTECT PUBLIC HEALTH AND SAFETY

- Local jurisdictions can deem something a “public nuisance” if it harms community health
  - Classic examples are accumulated trash or out of control vegetation
  - Recent cases have expanded the doctrine to include things like lead paint and opioids
- Jurisdictions can clean up the nuisance themselves, often called “self help,” and fine/bill the offender for the cost
- Closely related to zoning authority





# RESOURCES AVAILABLE

## [WWW.PUBLICHEALTHLAWCENTER.ORG](http://WWW.PUBLICHEALTHLAWCENTER.ORG)

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August 2020

Law and Policy Partnership to End the Commercial Tobacco Epidemic

## TOBACCO PRODUCT WASTE: FREQUENTLY ASKED QUESTIONS

Many discarded commercial tobacco<sup>1</sup> products and their packaging are toxic to both human and environmental health, often due to overlapping and cumulative toxicity impacts.

For example, cigarette filters, or “butts,” are made of the plastic material cellulose acetate, which does not biodegrade, but merely breaks down into microplastics, moving deeper into the food chain and water supply. Used cigarette butts are known to leach toxic amounts of nicotine, pesticides, polycyclic aromatic hydrocarbons, arsenic, and heavy metals such as lead and cadmium, potentially for years after use. Even unsmoked cigarette butts are toxic to animals, plants and aquatic life.<sup>2</sup> Recent research



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COMMERCIAL  
TOBACCO POLLUTION

December 2019

## DISPOSING OF E-CIGARETTE WASTE

### FAQ for Schools and Others

Schools and other public institutions are coping with many unforeseen consequences as a result of the e-cigarette epidemic.<sup>1</sup> From installing costly bathroom monitors to redirecting counselor time to deal with the ramifications of addiction, schools are expending significant resources to respond to an industry-created crisis.



Photo: Jeremiah Mock<sup>2</sup>



# CONTACT US



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