

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 258

**Introduced by Assembly Member Krekorian
(Principal coauthor: Assembly Member Feuer)
(Coauthors: Assembly Members Huffman, Karnette, and
Portantino)**

February 5, 2007

An act to ~~add Section 30237 to the Public Resources Code, and to~~ add Chapter 5.2 (commencing with Section 13367) to Division 7 of the Water Code, relating to the water quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 258, as amended, Krekorian. ~~Environment: marine debris: Water quality:~~ plastic discharges.

Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards are the principal state agencies with authority over matters relating to water quality. The state board and the regional boards prescribe waste discharge requirements for the discharge of waste in accordance with the federal national pollutant discharge elimination system (NPDES) permit program established by the federal Clean Water Act and the Porter-Cologne Water Quality Control Act. A person who discharges waste into the waters of the state in violation of waste discharge requirements, or other order or prohibition issued by a regional board or the state board, is required upon the order of that regional board or the state board, to clean up the waste or to abate the effects of

the waste. The act authorizes the state board or a regional board to issue a cleanup or abatement order.

This bill would require the state board and the regional boards, by January 1, 2009, to implement a program for the control of discharges of preproduction plastics from point and nonpoint sources, including waste discharge, monitoring, and reporting requirements that at a minimum, target facilities that handle preproduction and nonpoint sources involved in the transfer of preproduction plastic, and the implementation of specified best management practices for the control of discharges of preproduction plastic. *The state board would be required, when developing the program, to consult with regional boards with plastic manufacturing, handling, and transportation facilities that have already voluntarily implemented a program to control discharges of preproduction plastic.* The state board would *also* be required to establish criteria for submittal of the no exposure certification by certain plastic manufacturing and processing facilities. A plastic manufacturing and process facility that is given a no exposure certification would not be required to implement the best management practices if all manufacturing, loading, unloading, and storage activities occur within the certified facility, unless required by the state board or a regional board. The state board would be required to establish a fee schedule sufficient to pay for the costs of implementing *and administering* the program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The increasing problem of marine debris is harmful to marine
- 4 resources, particularly species that ingest or become entangled in
- 5 floating debris.
- 6 (b) Plastic is the most common type of marine debris,
- 7 comprising up to 90 percent of floating marine debris.
- 8 (c) The problem of plastic marine debris is increasing in
- 9 California and the North Pacific Gyre, where densities of
- 10 microplastics have tripled during the last decade.
- 11 (d) Plastics are especially harmful to the marine environment
- 12 due to plastics' nondegradable qualities.

1 (e) Thermoplastic resin pellets, commonly known as “nurdles,”
2 plastic powders, and production scrap, all of which have been
3 mistaken as food by marine life, are a significant source of beach
4 pollution. One survey conducted in the summer of 1998 estimated
5 that over 100 million nurdles were polluting Orange County
6 beaches alone. This represented over 98 percent of all the pollution
7 collected in terms of abundance and 17 percent in terms of weights.

8 (f) Plastics can contain potentially harmful constituents such as
9 phthalates, bisphenol A, styrene, perfluorooctanoic acid, vinyl
10 chloride, and flame retardants.

11 (g) Nurdles have been shown to adsorb chemicals from ambient
12 seawater. Concentrations of pollutants, such as polychlorinated
13 biphenyls and dichlorodiphenyldichloroethylene have been found
14 to be up to one million times higher on nurdles than levels detected
15 in surrounding seawater.

16 (h) Approximately 60 billion pounds of nurdles are
17 manufactured annually in the United States alone.

18 (i) The presence of resin pellets is not unique to United States
19 beaches and waters. Studies have shown an international
20 proliferation of nurdles in the marine environment.

21 (j) Plastic and other debris litter our beaches and ~~represents~~
22 *represent* a threat to California’s \$46 billion ocean-dependent,
23 tourism-oriented economy, and in certain circumstances may pose
24 a public health threat.

25 (k) State and local agencies spend millions of dollars per year
26 in litter collection.

27 (l) The majority of trash capture best management practices,
28 such as catch basin inserts, are not designed to capture nurdles.
29 The typical mesh in a catch basin insert is five millimeters while
30 the nurdles diameter is one to two millimeters.

31 (m) A coordinated effort among state agencies is necessary to
32 create a comprehensive response to reduce the harmful effects of
33 marine debris.

34 (n) Increased control over industrial discharges will reduce the
35 amount of plastics entering the aquatic environment.

36 (o) Eliminating marine debris from the world’s oceans is a
37 universal goal for government, industry, businesses, and
38 individuals.

39 SEC. 2. Chapter 5.2 (commencing with Section 13367) is added
40 to Division 7 of the Water Code, to read:

1 CHAPTER 5.2. PLASTIC DEBRIS ERADICATION PROGRAM

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3 13367. (a) For purposes of this chapter, “preproduction
4 plastic” includes plastic pellets, plastic resin products, powdered
5 coloring for plastics, plastic additives, and plastic fragments.

6 (b) (1) The state board and the regional boards shall implement
7 a program to control discharges of preproduction plastic from point
8 and nonpoint sources.

9 (2) *The state board, when developing this program, shall consult*
10 *with any regional board with plastic manufacturing, handling,*
11 *and transportation facilities located within the regional board’s*
12 *jurisdiction that has already voluntarily implemented a program*
13 *to control discharges of preproduction plastic.*

14 (c) The program control measures shall, at a minimum, include
15 waste discharge, monitoring, and reporting requirements that target
16 facilities that handle preproduction plastic and nonpoint sources
17 involved in the transfer of preproduction plastics.

18 (d) The program shall, at a minimum, require plastic
19 manufacturing, handling, and transportation facilities to implement
20 best management practices to control discharges of preproduction
21 plastics.

22 (e) At a minimum, the best management practices shall include
23 all of the following:

24 (1) Zero loss containment systems shall be installed at all storm
25 drains that are down-gradient of areas where preproduction plastic
26 is present or transferred. A zero loss containment system is defined
27 as a device or series of devices that traps all particles retained by
28 a one millimeter mesh screen and has a design treatment capacity
29 of not less than the peak flowrate resulting from a one-year,
30 one-hour storm in the subdrainage area.

31 (2) At all points of transfer, preproduction plastic shall be
32 received in completely sealed containers. The container shall be
33 watertight and durable enough so as not to rupture under typical
34 loading and unloading activities.

35 (3) At all points of preproduction plastic storage and transfer,
36 preproduction plastic shall be stored in a manner that prevents
37 discharge. Storage containers must be sealed, watertight, and
38 durable enough so as not to rupture under typical loading and
39 unloading activities.

1 (4) At all points of storage and transfer of preproduction plastic,
2 capture devices shall be in place under all transfer valves and
3 devices used in loading, unloading, or other transfer of
4 preproduction plastic.

5 (5) A facility shall have a vacuum system available for quick
6 cleanup of fugitive preproduction plastic.

7 (f) The state board shall establish criteria for submittal for the
8 no exposure certification requirement by plastic manufacturing
9 and process facilities subject to the national pollutant discharge
10 elimination system permitting requirements pursuant to Section
11 122.26 of Title 40 of the Code of Federal Regulations and the no
12 exposure certification requirements pursuant to Section 122.26(g)
13 of Title 40 of the Code of Federal Regulations.

14 (1) The criteria shall include specific procedures, controls, and
15 best management practices necessary to achieve the zero discharge
16 of preproduction plastic from facilities manufacturing and
17 processing preproduction plastics.

18 (2) The no exposure certification shall be required annually.

19 (3) “No exposure” means that all industrial materials and
20 activities are protected by a storm resistant shelter to prevent
21 exposure to rain, snow, snowmelt, or runoff. Industrial materials
22 and activities include, but are not limited to, material handling
23 equipment or activities, industrial machinery, raw materials,
24 intermediate products, byproducts, and final products, or waste
25 products. Material handling activities include storage, loading and
26 unloading, transportation, or conveyance, of a raw material,
27 intermediate product, byproduct, final product, or waste product.

28 (g) If a plastic manufacturing and processing facility is given a
29 no exposure certification and all manufacturing, loading, unloading,
30 and storage activities occur within the certified no exposure facility,
31 the facility is not required to implement the best management
32 practices pursuant to subdivision (d), unless required by the state
33 board or *the* regional boards.

34 (h) The state board shall establish a fee schedule sufficient to
35 pay for the costs of implementing *and administering the program*
36 *established under* this chapter.

37 (i) The state board and the regional boards shall implement this
38 chapter by January 1, 2009.

39 (j) Nothing in this chapter limits the authority of the state board
40 or the regional boards to establish requirements in addition to the

- 1 best management practices for the elimination of discharges of
- 2 preproduction plastic.

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