AMENDED IN SENATE AUGUST 27, 2007

AMENDED IN SENATE AUGUST 1, 2007

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CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 258

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

February 5, 2007

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

LEGISLATIVE COUNSEL'S DIGEST

AB 258, as amended, Krekorian. 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 *plastic manufacturing, handling, and transportation* facilities ~~that handle preproduction and nonpoint sources involved in the transfer of preproduction plastic~~, and the implementation of specified minimum best management practices for the control of discharges of preproduction plastic. *The bill would require the state board to determine the appropriate regulatory methods to address the discharges from point and nonpoint sources.* The state board would be required, when developing the program, to consult with any regional board with plastic manufacturing, handling, and transportation facilities located within the regional board's jurisdiction that have already voluntarily implemented a program to control discharges of preproduction plastic. The state board would also be required to ~~establish~~ *include* criteria for ~~submittal of the~~ *submitting a* no exposure certification ~~by certain plastic manufacturing and processing facilities. A plastic manufacturing and processing facility that is given a no exposure certification would not be required to implement any other best management practices for the control of preproduction plastic, if all manufacturing, loading, unloading, and storage activities occur within the certified facility. The bill would require an entity that manufactures, handles, distributes, or transports preproduction plastic to apply for coverage under a specified stormwater discharge permit, and would require the permit fees to be used by the state board to implement the preproduction plastic requirements.~~ *in all NPDES permits regulating plastic manufacturing, handling, or transportation facilities. The bill would provide that facilities that meet the no exposure certification criteria are conditionally exempt from NPDES permitting requirements.*

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The increasing problem of marine debris can be harmful to marine resources, particularly species that ingest or become entangled in that debris.

(b) Thermoplastic resin pellets, plastic powders, and production scrap can be mistaken as food by marine life.

(c) Approximately 60 billion pounds of resin pellets are manufactured annually in the United States alone.

(d) The presence of plastic resin pellets and other litter is not unique to United States beaches and waters. Studies have shown plastic resin pellets and other litter in the international marine environment.

(e) Litter found on our beaches represents a threat to California's $46 billion ocean-dependent, tourism-oriented economy, and in certain circumstances may pose a public health threat.

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

(g) The majority of trash capture best management practices, such as catch basin inserts, are not designed to capture resin pellets. The typical mesh in a catch basin insert is five millimeters while the diameter of resin pellets is one to two millimeters.

(h) A coordinated effort among state agencies is necessary to create a comprehensive response to reduce the presence of marine debris litter.

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

(j) Eliminating marine debris litter from the world's oceans is a universal goal for government, industry, businesses, and individuals.

(k) Stormwater discharges containing preproduction plastic are a significant contributor of pollutants to waters of the state. The state board shall designate, as appropriate, stormwater discharges of preproduction plastic from plastic manufacturing, handling, and transportation facilities as contributors of pollutants pursuant to Section 1342(p)(2)(E) of Title 33 of the United States Code of the federal Clean Water Act.

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

Chapter 5.2. Preproduction Plastic Debris Program

13367. (a) For purposes of this chapter, "preproduction plastic" includes plastic resin pellets and powdered coloring for plastics.

(b) (1) The state board and the regional boards shall implement a program to control discharges of preproduction plastic from point and nonpoint sources. *The state board shall determine the appropriate regulatory methods to address the discharges from these point and nonpoint sources.*

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

(c) The program control measures shall, at a minimum, include waste discharge, monitoring, and reporting requirements that target ~~facilities that handle preproduction plastic and nonpoint sources involved in the transfer of preproduction plastics.~~ *plastic manufacturing, handling, and transportation facilities.*

(d) The program shall, at a minimum, require plastic manufacturing, handling, and transportation facilities to implement best management practices to control discharges of preproduction plastics. A facility that handles preproduction plastic shall comply with either subdivision (e) or the criteria established pursuant to subdivision (f).

(e) At a minimum, the state board shall require the following best management practices in all permits issued under the national pollutant discharge elimination system (NPDES) program that regulate plastic manufacturing, handling, or transportation facilities:

(1) Appropriate containment systems shall be installed at all onsite storm drain discharge locations that are down-gradient of areas where preproduction plastic is present or transferred. A facility shall install a containment system that is defined as a device or series of devices that traps all particles retained by a one millimeter mesh screen and has a design treatment capacity of not less than the peak flowrate resulting from a one-year, one-hour

storm in each of the down-gradient drainage areas. When the installation of a containment system is not appropriate because one or more of a facility's down-gradient drainage areas is not discharged through a stormwater conveyance system, or when the regional board determines that a one millimeter or similar mesh screen is not appropriate at one or more down-gradient discharge locations, the regulated facility shall identify and propose for approval by the regional board technically feasible alternative storm drain control measures that are designed to achieve the same performance as a one millimeter mesh screen.

(2) At all points of preproduction plastic transfer, measures shall be taken to prevent discharge, including, but not limited to, sealed containers durable enough so as not to rupture under typical loading and unloading activities.

(3) At all points of preproduction plastic storage, preproduction plastic shall be stored in sealed containers that are durable enough so as not to rupture under typical loading and unloading activities.

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

(5) A facility shall make available to its employees a vacuum or vacuum type system, for quick cleanup of fugitive preproduction plastic.

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

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

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

~~(3) "No exposure" means that all industrial materials and activities are protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt, or runoff. Industrial materials and activities include, but are not limited to, material handling~~

~~equipment or activities, industrial machinery, raw materials, intermediate products, byproducts, and final products, or waste products. Material handling activities include storage, loading and unloading, transportation, or conveyance, of a raw material, intermediate product, byproduct, final product, or waste product.~~

~~(g) If a plastic manufacturing and processing facility is given a no exposure certification and all manufacturing, loading, unloading, and storage activities occur within the certified no exposure facility, the facility is not required to implement any other best management practices for the control of preproduction plastic.~~

~~(h) An entity that manufactures, handles, distributes, or transports preproduction plastic shall be required to apply for coverage under a general permit for storm water discharges associated with industrial activities. General permit fees required pursuant to this section shall calculated in accordance with Section 2200 of Title 23 of the California Code of Regulations, and the revenue generated from the fees shall be used by the state board to implement this chapter.~~

(f) The state board shall include criteria for submitting a no exposure certification pursuant to Section 122.26(g) of Title 40 of the Code of Federal Regulations in all NPDES permits regulating plastic manufacturing, handling, or transportation facilities. Facilities that satisfy the no exposure certification criteria are conditionally exempt from the permitting requirements pursuant to Section 122.26 of Title 40 of the Code of Federal Regulations. The no exposure certification shall be required every five years or more frequently as determined by the state board or a regional board.

~~(i)~~

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

~~(j)~~

(h) Nothing in this chapter limits the authority of the state board or the regional boards to establish requirements in addition to the best management practices for the elimination of discharges of preproduction plastic.

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