

E. Special Provisions: Total Maximum Daily Load Provisions

1. The provisions of this Part implement and are consistent with the assumptions and requirements of all waste load allocations (WLAs) established in TMDLs for which some or all of the Permittees in this Order are responsible.
 - a. Part VI.E of this Order includes provisions that are designed to assure that Permittees achieve WLAs and meet other requirements of TMDLs covering receiving waters impacted by the Permittees' MS4 discharges. TMDL provisions are grouped by Watershed Management Area (WMA) in Attachments X through X.
 - b. The Permittees subject to each TMDL are identified in Attachment I.
 - c. The Permittees shall comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments X through X, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR §122.44(d)(1)(vii)(B); Cal. Wat. Code §13263(a)).
 - d. A Permittee may comply with water quality-based effluent limitations and/or receiving water limitations in Attachments X through X using any lawful means.
2. Compliance Determination
 - a. General
 - i. A Permittee shall demonstrate compliance at compliance monitoring points established in each TMDL or an approved TMDL monitoring plan or in accordance with an approved integrated monitoring plan per Attachment X [Monitoring and Reporting Program] and Part VI.C.5 Integrated Watershed Monitoring and Assessment.
 - ii. Compliance with water quality-based effluent limitations shall be determined as described in Parts VI.E.2.d and VI.E.2.e, or for trash water quality-based effluent limitations as described in Part VI.E.5.b, or as otherwise set forth in TMDL specific provisions in Attachments X through X.
 - iii. Pursuant to Part VI.C, a Permittee may, individually or as part of a watershed-based group, develop and submit for approval by the Executive Officer a Watershed Management Program that addresses all water quality-based effluent limitations and receiving

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water limitations to which the Permittee is subject pursuant to established TMDLs.

b. Commingled Discharges

- i. A number of the TMDLs establish WLAs that are assigned jointly to a group of Permittees whose storm water and/or non-storm water discharges are or may be commingled in the MS4 prior to discharge to the receiving water subject to the TMDL.
- ii. In these cases, pursuant to 40 CFR section 122.26(a)(3)(vi), each Permittee is only responsible for discharges from the MS4 for which they are owners and/or operators.
- iii. Where Permittees have commingled discharges to the receiving water, compliance at the outfall to the receiving water or in the receiving water shall be determined for the group of Permittees as a whole unless an individual Permittee demonstrates that its discharge did not cause or contribute to the exceedance.
- iv. For purposes of compliance determination, each Permittee is responsible for demonstrating that its discharge did not cause or contribute to an exceedance of an applicable water quality-based effluent limitation(s) at the outfall or receiving water limitation(s) in the target receiving water.
- v. A Permittee may demonstrate that its discharge did not cause or contribute to an exceedance of an applicable water quality-based effluent limitation or receiving water limitation in any of the following ways:
 1. Demonstrate that there is no discharge from the Permittee's MS4 into the applicable receiving water; or
 2. Demonstrate that the discharge from the Permittee's MS4 is treated to a level that does not exceed the applicable water quality-based effluent limitation; or
 3. Demonstrate through a source investigation pursuant to protocols established under Water Code section 13178 or other accepted source identification protocols that pollutant sources within the jurisdiction of the Permittee or the Permittee's MS4 have not caused or contributed to the exceedance of the Receiving Water Limitation(s).

c. Receiving Water Limitations Addressed by a TMDL

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- i. For Receiving Water Limitations in Part V.A. associated with waterbody-pollutant combinations addressed in a TMDL, Permittees shall achieve compliance with the Receiving Water Limitations in Part V.A. as outlined in this Part and Attachments X through X of this Order.
 - ii. A Permittee shall not be considered in violation of a Receiving Water Limitation in Part V.A., if it is in compliance with the applicable TMDL requirement(s), including compliance schedules, of this Part and Attachments X through X.
 - iii. A Permittee shall not be considered in violation of a Receiving Water Limitation in Part V.A., if it is in compliance with the applicable TMDL requirements contained in a time schedule order.
- d. Interim Water Quality-Based Effluent Limitations and Receiving Water Limitations**
- i. A Permittee shall be considered in compliance with an applicable interim water quality-based effluent limitation and/or interim receiving water limitation for the pollutant(s) associated with a specific TMDL if any of the following is demonstrated:
 - 1. There are no violations of the interim water quality-based effluent limitation for the pollutant(s) associated with a specific TMDL at the Permittee's applicable MS4 outfall(s),¹ including an outfall to the receiving water that collects discharges from multiple Permittees' jurisdictions;
 - 2. There are no exceedances of the applicable receiving water limitation for the pollutant(s) associated with a specific TMDL in the receiving water(s) at, or downstream of, the Permittee's outfall(s);
 - 3. There is no direct or indirect discharge from the Permittee's MS4 to the receiving water during the time period subject to the water quality-based effluent limitation and/or receiving water limitation for the pollutant(s) associated with a specific TMDL; or
 - 4. The Permittee has submitted and is fully implementing an approved Watershed Management Program pursuant to Part VI.C.
 - a. To be considered fully implementing an approved Watershed Management Program, a Permittee must

¹ An outfall may include a manhole or other point of access to the MS4 at the Permittee's jurisdictional boundary.

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be implementing actions consistent with the approved program and applicable compliance schedules, including structural BMPs.

- b. Structural storm water BMPs must be designed and maintained to treat storm water runoff from the 85th percentile, 24-hour storm, and maintenance records must be up-to-date and available for inspection by the Los Angeles Water Board.
- c. A Permittee that does not implement the Watershed Management Program in accordance with the milestones and compliance schedules shall demonstrate compliance with its interim water quality-based effluent limitations and/or receiving water limitations pursuant to subpart VI.E.2.d.i.1-3, above.

e. Final Water Quality Based Effluent Limitations and/or Receiving Water Limitations

- i. A Permittee shall be deemed in compliance with an applicable final water quality-based effluent limitation and/or final receiving water limitation for the pollutant(s) associated with a specific TMDL if any of the following is demonstrated:
 - 1. There are no violations of the final water quality-based effluent limitation for the specific pollutant at the Permittee's applicable MS4 outfall(s)²;
 - 2. There are no exceedances of applicable receiving water limitation for the specific pollutant in the receiving water(s) at, or downstream of, the Permittee's outfall(s); or
 - 3. There is no direct or indirect discharge from the Permittee's MS4 to the receiving water during the time period subject to the water quality-based effluent limitation and/or receiving water limitation for the pollutant(s) associated with a specific TMDL.

3. USEPA Established TMDLs

TMDLs established by the USEPA, to which Permittees are subject, do not have an implementation schedule adopted pursuant to Cal. Water Code section 13242. Therefore, a compliance schedule for attaining the water quality-based effluent limitations and/or receiving water limitations is not provided within this Order. However, any Permittee that is subject to water

² Ibid.

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quality-based effluent limitations and/or receiving water limitations to implement a USEPA established TMDL may [insert timeframe] request a time schedule order (TSO) pursuant to Cal. Water Code section 13300 for the Regional Water Board's consideration.

- a.** Permittees may either individually request a TSO, or may jointly request a TSO with all Permittees subject to the water quality-based effluent limitations and/or receiving water limitations, to implement the WLAs in the USEPA established TMDL.
- b.** At a minimum, a request for a TSO shall include the following:
 - i.** Data demonstrating the current quality of the MS4 discharge(s) in terms of concentration and/or load of the target pollutant(s) to the receiving waters subject to the TMDL;
 - ii.** A detailed time schedule of specific actions the Permittee will take in order to achieve the water quality-based effluent limitations and/or receiving water limitations;
 - iii.** A demonstration that the time schedule requested is as short as possible, taking into account the technological, operation, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the water quality-based effluent limitation(s); and
 - iv.** If the requested time schedule exceeds one year, the proposed schedule shall include interim requirements and the date(s) for their achievement. The interim requirements shall include both of the following:
 - a.** Effluent limitation(s) for the pollutant(s) of concern; and
 - b.** Actions and milestones leading to compliance with the effluent limitation(s).
- c.** A Permittee that is in compliance with the requirements of a Regional Water Board issued TSO is not considered in violation of the applicable final receiving water limitations and/or water quality-based effluent limitations for the pollutant(s) subject to the provisions in this Part and Attachments X through X.

4. State Adopted TMDLs where Final Compliance Deadlines have Passed

- a.** Permittees shall comply immediately with water quality-based effluent limitations and/or receiving water limitations to implement WLAs in state-adopted TMDLs for which final compliance deadlines have passed pursuant to the TMDL implementation schedule.

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- b.** Where a Permittee believes that additional time to comply with the final water quality-based effluent limitations and/or receiving water limitations is necessary, a Permittee may [insert timeframe] request a time schedule order (TSO) pursuant to Cal. Water Code section 13300 for the Regional Water Board's consideration.
- c.** Permittees may either individually request a TSO, or may jointly request a TSO with all Permittees subject to the water quality-based effluent limitations and/or receiving water limitations, to implement the WLAs in the state-adopted TMDL.
- d.** At a minimum, a request for a TSO shall include the following:

 - i.** Data demonstrating the current quality of the MS4 discharge(s) in terms of concentration and/or load of the target pollutant(s) to the receiving waters subject to the TMDL;
 - ii.** A detailed description and chronology of structural controls and source control efforts, since the effective date of the TMDL, to reduce the pollutant load in the MS4 discharges to the receiving waters subject to the TMDL;
 - iii.** Justification of the need for additional time to achieve the water quality-based effluent limitations and/or receiving water limitations;
 - iv.** A detailed time schedule of specific actions the Permittee will take in order to achieve the water quality-based effluent limitations and/or receiving water limitations;
 - v.** A demonstration that the time schedule requested is as short as possible, taking into account the technological, operation, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the effluent limitation(s); and
 - vi.** If the requested time schedule exceeds one year, the proposed schedule shall include interim requirements and the date(s) for their achievement. The interim requirements shall include both of the following:

 - a.** Effluent limitation(s) for the pollutant(s) of concern; and
 - b.** Actions and milestones leading to compliance with the effluent limitation(s).
- e.** A Permittee that is in compliance with the requirements of a Regional Water Board issued TSO is not considered in violation of the applicable final receiving water limitations and/or water quality based effluent

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limitations for the pollutant(s) subject to the provisions in this Part and Attachments X through X.

5. Water Quality-Based Effluent Limitations for Trash

Permittees assigned a Waste Load Allocation in a trash TMDL shall comply as set forth below.

a. Effluent Limitations: Permittees shall comply with the interim and final water quality-based effluent limitations for trash set forth in Attachments X through X for the following Trash TMDLs:

- i. Lake Elizabeth Trash TMDL
- ii. Santa Monica Bay Nearshore and Offshore Debris TMDL
- iii. Malibu Creek Watershed Trash TMDL
- iv. Ballona Creek Trash TMDL
- v. Machado Lake Trash TMDL
- vi. Los Angeles River Trash TMDL
- vii. Legg Lake Trash TMDL
- viii. Peck Road Park Lake Trash TMDL
- ix. Echo Park Lake Trash TMDL
- x. Lincoln Park Lake Trash TMDL

b. Compliance

i. Pursuant to Water Code section 13360(a), Permittees may comply with the trash effluent limitations using any lawful means. Such compliance options are broadly classified as *full capture*, *partial capture*, *institutional controls*, or *minimum frequency of assessment and collection*, as described below, and any combination of these may be employed to achieve compliance:

(1) Full Capture Systems:

- (a) The Los Angeles Region's Basin Plan authorizes the Executive Officer to certify *full capture systems*, which are systems that meet the operating and performance requirements as described in this Order, and the procedures identified in "Procedures and Requirements for Certification of a Best Management Practice for Trash Control as a Full Capture System." (See Appendix X)³

³ The Los Angeles Water Board currently recognizes eight *full capture systems*. These are: Vortex Separation Systems (VSS) and seven other Executive Officer certified *full capture systems*, including specific types or designs of trash nets; two gross solids removal devices (GSRDs); catch basin brush inserts and mesh screens; vertical and horizontal trash capture screen inserts; and a connector pipe screen device.

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- (b) Permittees are authorized to comply with their effluent limitations through certified *full capture systems* provided the requirements of paragraph (c), immediately below, and any conditions in the certification, continue to be met.
- (c) Permittees may comply with their effluent limitations through progressive installation of *full capture systems* throughout their jurisdictional areas until all areas draining to Lake Elizabeth, Malibu Creek, Ballona Creek, Machado Lake, the Los Angeles River system, Legg Lake, Peck Road Park Lake, Echo Park Lake, and/or Lincoln Park Lake are addressed. For purposes of this Order, attainment of the effluent limitations shall be conclusively presumed for any drainage area to Lake Elizabeth, Malibu Creek (and its tributaries), Ballona Creek (and its tributaries), Machado Lake, the Los Angeles River (and its tributaries), Legg Lake, Peck Road Lake, Echo Park Lake, and/or Lincoln Park Lake where certified *full capture systems* treat all drainage from the area, provided that the *full capture systems* are adequately sized and maintained, and that maintenance records are up-to-date and available for inspection by the Regional Water Board.
- (i) A Permittee shall be deemed in compliance with its final effluent limitation if it demonstrates that all drainage areas under its jurisdiction and/or authority are serviced by appropriate certified *full capture systems* as described in paragraph (1)(c).
- (ii) A Permittee shall be deemed in compliance with its interim effluent limitations, where applicable:
1. By demonstrating that *full capture systems* treat the percentage of drainage areas in the watershed that corresponds to the required trash abatement.
 2. Alternatively, a Permittee may propose a schedule for installation of *full capture systems* in areas under its jurisdiction and/or authority within a given watershed, targeting first the areas of greatest trash generation, for the Executive Officer's approval. The Executive Officer shall not approve any such schedule that does not result in timely compliance with the final effluent limitations, consistent with the established TMDL implementation schedule and applicable State policies. A Permittee shall be deemed in compliance with its interim effluent limitations provided it is fully in compliance with any such approved schedule.
- (2) Partial Capture Devices and Institutional Controls: Permittees may comply with their interim and final effluent limitations through the

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installation of *partial capture devices* and the application of *institutional controls*.⁴

- (a) Trash discharges from areas serviced solely by *partial capture devices* may be estimated based on demonstrated performance of the device(s) in the implementing area.⁵ That is, trash reduction is equivalent to the *partial capture devices*' trash removal efficiency multiplied by the percentage of drainage area serviced by the devices.
- (b) Except as provided in subdivision (c), immediately below, trash discharges from areas addressed by *institutional controls* and/or *partial capture devices* (where site-specific performance data is not available) shall be calculated using a mass balance approach, based on the daily generation rate (DGR) for a representative area.⁶ The DGR shall be determined from direct measurement of trash deposited in the drainage area during any thirty-day period between June 22nd and September 22nd exclusive of rain events⁷, and shall be re-calculated every year thereafter unless a less frequent period for recalculation is approved by the Executive Officer. The DGR shall be calculated as the total amount of trash collected during this period divided by the length of the collection period.

DGR = (Amount of trash collected during a 30-day collection period⁸) / (30 days)

The DGR for the applicable area under the Permittees' jurisdiction and/or authority shall be extrapolated from that of the representative drainage area(s). A mass balance equation shall be used to estimate the amount of trash discharged during a storm event.⁹ The *Storm Event Trash Discharge* for a given rain event in the Permittee's drainage area shall be calculated by multiplying the number of days since the last street sweeping by the DGR and subtracting the amount of any trash recovered in the catch basins.¹⁰ For each day of a storm event that generates precipitation greater than 0.25 inch, the Permittee shall calculate a *Storm Event Trash Discharge*.

⁴ While interim effluent limitations may be complied with using *partial capture devices*, compliance with final effluent limitations cannot be achieved with the exclusive use of *partial capture devices*.

⁵ Performance shall be demonstrated under different conditions (e.g. low to high trash loading).

⁶ The area(s) should be representative of the land uses and activities within the Permittees' authority and shall be approved by the Executive Officer prior to the 30-day collection period.

⁷ Provided no special events are scheduled that may affect the representative nature of that collection period.

⁸ Between June 22nd and September 22nd

⁹ Amount of trash shall refer to the uncompressed volume (in gallons) or drip-dry weight (in pounds) of trash collected.

¹⁰ Any negative values shall be considered to represent a zero discharge.

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Storm Event Trash Discharge = [(Days since last street sweeping*DGR)] – [Amount of trash recovered from catch basins]¹¹

The sum of the *Storm Event Trash Discharges* for the storm year shall be the Permittee's calculated annual trash discharge.

Total Storm Year Trash Discharge = \sum Storm Event Trash Discharges from Drainage Area

- (c) The Executive Officer may approve alternative compliance monitoring approaches for calculating total storm year trash discharge, upon finding that the program will provide a scientifically-based estimate of the amount of trash discharged from the Permittee's MS4.

(3) Combined Compliance Approaches:

Permittees may comply with their interim and final effluent limitations through a combination of *full capture systems*, *partial capture devices*, and *institutional controls*. Where a Permittee relies on a combination of approaches, it shall demonstrate compliance with the interim and final effluent limitations as specified in (1)(c) in areas where *full capture systems* are installed and as specified in (2)(b) in areas where *partial capture devices* and *institutional controls* are applied.

(4) Minimum Frequency of Assessment and Collection Approach:

If allowed in a trash TMDL and approved by the Executive Officer, a Permittee may alternatively comply with its effluent limitations by implementing a program for *minimum frequency of assessment and collection* (MFAC) in conjunction with BMPs. To the satisfaction of the Executive Officer, the MFAC/BMP program must meet the following criteria:

- (a) The MFAC/BMP Program includes an initial minimum frequency of trash assessment and collection and suite of structural and/or nonstructural BMPs. The MFAC/BMP program shall include collection and disposal of all trash found in the receiving water and shoreline. Permittees shall implement an initial suite of BMPs based on current trash management practices in land areas that are found to be sources of trash to the water body. The initial minimum frequency of trash assessment and collection shall be set as specified in the following TMDLs:

- (i) Malibu Creek Watershed Trash TMDL

¹¹ When more than one storm event occurs prior to the next street sweeping the discharge shall be calculated from the date of the last assessment.

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- (ii) Machado Lake Trash TMDL
 - (iii) Legg Lake Trash TMDL
 - (b) The MFAC/BMP Program includes reasonable assurances that it will be implemented by the responsible Permittees.
 - (c) MFAC protocols may be based on SWAMP protocols for rapid trash assessment, or alternative protocols proposed by Permittees and approved by the Executive Officer.
 - (d) Implementation of the MFAC/BMP program should include a Health and Safety Program to protect personnel. The MFAC/BMP program shall not require Permittees to access and collect trash from areas where personnel are prohibited.
 - (e) The Executive Officer may approve or require a revised assessment and collection frequency and definition of the critical conditions under the MFAC:
 - (i) To prevent trash from accumulating in deleterious amounts that cause nuisance or adversely affect beneficial uses between collections;
 - (ii) To reflect the results of trash assessment and collection;
 - (iii) If the amount of trash collected does not show a decreasing trend, where necessary, such that a shorter interval between collections is warranted; or
 - (iv) If the amount of trash collected is decreasing such that a longer interval between collections is warranted.
 - (f) At the end of the implementation period, a revised MFAC/BMP program may be required if the Executive Officer determines that the amount of trash accumulating between collections is causing nuisance or otherwise adversely affecting beneficial uses.
 - (g) With regard to (4)(e)(i), (4)(e)(ii), or (4)(e)(iii), above, the Executive Officer is authorized to allow responsible Permittees to implement additional structural or non-structural BMPs in lieu of modifying the monitoring frequency.
- ii.** If a Permittee is not in compliance with its applicable interim and/or final effluent limitation as identified in Attachments X through X, then it shall be in violation of this Order.
- (1) A Permittee relying on *partial capture devices* and/or *institutional controls* that has violated its interim and/or final effluent limitation(s) shall be presumed to have violated the applicable limitation for each day of each storm event that generated precipitation greater than 0.25 inch during the applicable storm year, except those storm

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days on which it establishes that its cumulative Storm Event Trash Discharges has not exceeded the applicable effluent limitation.

(2) If a Permittee relying on *full capture systems* has failed to demonstrate that the *full capture systems* for any drainage area are adequately sized and maintained, and that maintenance records are up-to-date and available for inspection by the Regional Water Board, and that it is in compliance with any conditions of its certification, shall be presumed to have discharged trash in an amount that corresponds to the percentage of the baseline waste load allocation represented by the drainage area in question.

(a) A Permittee may overcome this presumption by demonstrating (using any of the methods authorized in this Part B(1)(b)) that the actual or calculated discharge for that drainage area is in compliance with the applicable interim or final effluent limitation.

iii. Each Permittee shall be held liable for violations of the effluent limitations assigned to their area. If a Permittee's compliance strategy includes *full or partial capture devices* and it chooses to install a full or partial capture device in the MS4 physical infrastructure of another public entity, it is responsible for obtaining all necessary permits to do so. If a Permittee believes it is unable to obtain the permits needed to install a full capture or partial capture device within another Permittee's MS4 physical infrastructure, either Permittee may request the Executive Officer to hold a conference with the Permittees. Nothing in this Order shall affect the right of that public entity or a Permittee to seek indemnity or other recourse from the other as they deem appropriate. Nothing in this subsection shall be construed as relieving a Permittee of any liability that the Permittee would otherwise have under this Order.

c. Monitoring and Reporting Requirements (pursuant to Water Code section 13383)

i. Each Permittee shall submit a TMDL Compliance Report as part of its Annual Report detailing compliance with the applicable interim and/or final effluent limitations. Reporting shall include the information specified below. The report shall be submitted on the reporting form specified by the Regional Water Board Executive Officer. The report shall be signed under penalty of perjury by the Permittee's Director or other agency head (or their delegee) that is responsible for ensuring compliance with this Order. Each Permittee shall be charged with and shall demonstrate compliance with its applicable effluent limitations beginning with its October 31, 2012 TMDL Compliance Report.

(1) Reporting Compliance based on Full Capture Systems: Permittees shall provide information on the number and location of full capture

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installations, the sizing of each full capture installation, the drainage areas addressed by these installations, and compliance with the applicable interim or final effluent limitation, in its TMDL Compliance Report. The Los Angeles Water Board will periodically audit sizing, performance, and other data to validate that a system satisfies the criteria established for a *full capture system* and any conditions established by the Executive Officer in the certification.

(2) Reporting Compliance based on Partial Capture Systems and/or Institutional Controls:

(a) Using Performance Data Specific to the Permittee's Area: In its TMDL Compliance Report, a Permittee shall provide: (i) site-specific performance data for the applicable device(s); (ii) information on the number and location of such installations, and the drainage areas addressed by these installations; and (iii) calculated compliance with the applicable effluent limitations.

(b) Using Direct Measurement of Trash Discharge: Permittees shall provide an accounting of DGR and trash removal via street sweeping, catch basin clean outs, etc., in a database to facilitate the calculation of discharge for each rain event. The database shall be maintained and provided to the Regional Water Board for inspection upon request. In its TMDL Compliance Report, a Permittee shall provide information on its annual DGR, calculated storm year discharge, and compliance with the applicable effluent limitation.

(3) Reporting Compliance based on Combined Compliance Approaches:

Permittees shall provide the information specified in subsection (a) for areas where *full capture systems* are installed and that are specified in subsection (b)(1) or (b)(2), as appropriate, for areas where *partial capture devices* and *institutional controls* are applied. In its TMDL Compliance Report, a Permittee shall also provide information on compliance with the applicable effluent limitation based on the combined compliance approaches.

(4) Reporting Compliance based on an MFAC/BMP Approach:

The MFAC/BMP Program includes a Trash Monitoring and Reporting Plan, and a requirement that the responsible Permittees will self-report any non-compliance with its provisions. The results and report of the Trash Monitoring and Reporting Plan must be submitted to Regional Board with the Permittee's Annual Report.

- ii. Violation of the reporting requirements of this Part shall be punishable pursuant to, inter alia, California Water Code section 13385, subdivision (a)(3), and/or section 13385.1, subdivision (a)(1).