



March 15, 2012

Mr. John Muller, Chair  
San Francisco Bay Regional Water Quality Control Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

**Attn: Mr. Dale Bowyer - [dbowyer@waterboards.ca.gov](mailto:dbowyer@waterboards.ca.gov)**

Dear Mr. Muller:

On behalf of the California Manufacturers & Technology Association (CMTA), I am writing to express concerns about two reports prepared by the Bay Area Stormwater Management Agencies Association (BASMAA) titled *Preliminary Baseline Trash Generation Rates for San Francisco Bay Area MS4s* and *Trash Load Reduction Tracking Method (TLRTM)*.

We strongly support sensible and workable efforts to reduce the amount of trash and litter that finds its way into streams, creeks and roadsides. Unfortunately, the draft report and suggested compliance measures fall terribly short, and raise many concerns. Our biggest concern is the baseline calculation methodology and the trash load reduction methods are severely flawed and riddled with assumptions rather than being founded on hard data. A second, equally significant concern is the arbitrary and capricious nature of the trash reduction credits selected, the amounts of the credits to be granted, and the entire system by which the credits were selected/developed. We fail to see a fact-based or logical connection – merely unsupported assumptions – between the percentage reductions assigned to various trash “control measures” and the actual discharges that such measures would be expected to achieve.

The *TLRTM* report itself admits the recommended percent reductions are not based on data, but on opinion – on “discussions among BASMAA Trash Committee members.” And the assigned percentage credits are actually contradicted by BASMAA’s own study, which reported that plastic bags were 7-8% of all trash recovered before entering the MS4 – not *at discharge* from an MS4. Notwithstanding its own data, BASMAA assumes a total ban on plastic bags will reduce total trash discharges by up to 12%. This is a mathematical impossibility. BASMAA also bends the math with polystyrene foam foodservice. After finding only 6-7% of trash captured to be polystyrene foam foodservice, BASMAA nevertheless suggests an 8% credit for a polystyrene foam foodservice ban.

A 24% reduction credit is proposed as an award where a fee is placed on single-use beverage and food containers. This, likewise, is arbitrary – there is absolutely no analysis or data presented as to how a fee—or what size of fee—on what products will yield what kind of trash reduction.

The regulatory process cannot be arbitrary and must be based on facts and data. The legislative process ultimately must have a rational basis to affect sound public policy. The credit approach proposed here is an abrogation of regulatory responsibilities and cannot stand. It usurps the role of the legislator whose separate responsibility is to effect sound public policy and take into consideration a wide range of factors such as the impact on local business.

I urge you to retract the proposed "credit system" with respect to the arbitrary awards given in exchange for product bans. Thank you in advance for considering these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Rogge". The signature is fluid and cursive, with the first name "Michael" being the most prominent.

Michael J. Rogge  
Policy Director , Environmental Quality

cc: Members, San Francisco Bay Regional Water Quality Control Board