



March 20, 2012

Dale Bowyer  
San Francisco Bay Regional Water Quality Control Board  
1515 Clay St, Suite 1400  
Oakland, CA 94612

Dear Mr. Bowyer:

On behalf of Save The Bay and our 30,000 members throughout the Bay Area, I submit these comments on the Baseline Trash Loads and Trash Load Reduction Tracking Method proposals submitted by the Bay Area Stormwater Management Agencies Association (BASMAA) in compliance with the Municipal Regional Stormwater Permit (MRP). Save The Bay appreciates the opportunity to comment on these important measures to reduce trash in our creeks and bay.

At the outset, Save The Bay is concerned that the calculated rates and proposed credits are allowing permittees to claim significant reductions in trash loading without taking substantial measures to achieve these reductions.

We recognize that much work has been done to model loading rates and potential reductions from trash control actions, but the limited data on which the baseline loading rates are based is highly variable. In the last two years, only three trash characterization studies were conducted, and data from only two were used in the baseline calculations. Additionally, several land use categories do not have sufficient representation in the 155 monitoring sites from which loading data was collected; the number of monitoring sites in heavy industrial, urban park, and commercial areas fall well below BASMAA's goal. Less than half of the heavy industrial monitoring locations were established for data collection, while urban park and commercial sites fell 30 percent and 20 percent below their respective goals. Care should be taken to assess how representative the resulting baseline data really is and the degree to which permittees should be required to refine their loading rates by incorporating data from additional trash characterization studies, especially for the land use categories discussed above.

Similar to the baseline loading calculations, permittees collected very little to no data for the purposes of developing the trash control crediting methodology. Instead, somewhat arbitrary percent reductions are assigned to several trash control measures. The current reduction credits are allowing permittees to do very little and claim drastic reductions, indicating a need to reduce credits across the board. Additionally, some permittees are delaying implementation of smart environmental policies because their existing and planned control measures already get them – on paper – to a 40 percent reduction. Creating an incentive for inaction cannot be what the Water Board intended.

One major issue with the current crediting system is the extreme level of grandfathering in of existing control measures, such as container management and uncovered load ordinances and product bans. The basis for the MRP is that status quo efforts are not

enough. While Save The Bay commends cities that were early adopters of policies to control the accidental or intentional release of trash into the environment, new and enhanced approaches are necessary to reduce and prevent trash impairment in our waterways and the Bay. The Water Board should establish a cut-off date for grandfathering in ordinances and other existing control measures.

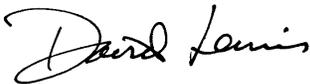
Each control measure – especially those receiving credits – should specify enforcement procedures. The effectiveness of each control measure should not be determined after the deadline for the 40 percent and 70 percent reductions have passed; verification that each control measure is being adequately implemented and enforced should be incorporated into the implementation plan for each action.

Below are comments on specific trash control measures:

- Public education should not be the basis of a credit. Public education should be an automatic component of each control measure, and is an action that cities and counties should be doing regardless of this permit.
- Longstanding clean-up events, such as those held on Coastal Cleanup Day, should not be considered “enhanced implementation” of this trash control measure; enhanced effort should only be awarded to permittees that began additional or new clean-up efforts after the MRP went into effect.
- The credits proposed for the food and beverage ware ordinance are extreme outliers compared with the credit ranges proposed for other control methods. Unless existing information distinguishes this control measure as significantly more effective than other control measures, the credits should be within the range of the other product bans proposed. As noted above, the current reduction credits need to be reduced.

The unintended consequences described above of the current crediting methodology demonstrate the need for a sensitivity analysis of this approach. The information included in the short-term plans should allow the Water Board or the public to discern between trash reduction actions that accomplish the bare minimum (or nothing at all) and those enhanced efforts that are truly striving to achieve noticeable and measurable reductions in trash loads – this is not apparent in the current plans. We urge the Water Board to reconsider BASMAA’s proposals in light of our comments. Thank you for your consideration.

Sincerely,



David Lewis  
Executive Director