



March 16, 2012

Mr. John Muller, Chair
Attn: Mr. Dale Bowyer - dbowyer@waterboards.ca.gov
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Dear Mr. Muller:

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

The California Retailers Association is the only statewide trade association representing all segments of the retail industry including general merchandise, department stores, mass merchandisers, supermarkets, fast food restaurants, chain drug and convenience stores, as well as specialty retailers such as auto, book and home improvement stores. CRA works on behalf of California's retail industry, which currently operates over 164,200 stores with sales in excess of \$571 billion annually and employing 2,776,000 people – nearly one fifth of California's total employment.

CRA and our member companies 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 from 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, again, is arbitrary. There is 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.

This proposal could have sweeping, long-term ramifications on the retail industry at a time of high unemployment and economic uncertainty. Even more troubling, is the fact that the recommendations within this proposal are backed by unfounded and unsupported assumptions, rather than fact or hard data. The regulatory process cannot and should not be arbitrary.

For these reasons, we must regretfully 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 your consideration of our position. Please feel free to contact me at (916) 443-1975 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Bill Dombrowski". The signature is written in a cursive, flowing style.

Bill Dombrowski
President & CEO

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