



March 15, 2012

Mr. John Muller, Chair
C/O: 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 members of the Foodservice Packaging Institute (FPI), I am writing to express concerns about two reports prepared by the Bay Area Stormwater Management Agencies Association titled *Preliminary Baseline Trash Generation Rates for San Francisco Bay Area MS4s* and *Trash Load Reduction Tracking Method*.

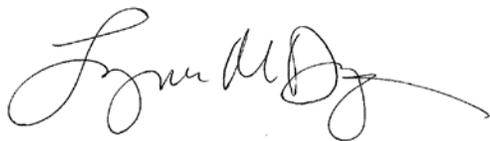
We strongly support sensible and workable efforts to reduce the amount of trash and litter that finds its way into streams, creeks and roadsides. Unfortunately, the draft report and suggested compliance measures fall terribly short and raise many concerns. We have two broad concerns and one more specific to our industry to share with you.

- Broad concern #1: The baseline calculation methodology and the trash load reduction methods are severely flawed and riddled with assumptions rather than being founded on hard data.
- Broad concern #2: 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.
- Industry-specific concern #1: Single-use foodservice packaging was developed over 100 years ago to ensure the sanitary distribution of foods and beverages and protect public health. Studies repeatedly show that single-use packaging like paper and plastic (including foam) cups, containers and cutlery have lower microbial counts compared to their reusable glass and ceramic counterparts. In fact, the Food and Drug Administration, in its U.S. Food Code, requires the use of these products in certain circumstances because they see the sanitary value of single-use items. Encouraging cities and counties to ban single-use foodservice packaging would lead to unintended consequences that could jeopardize public health and safety.

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 affect sound public policy and take into consideration a wide range of factors including unintended consequences on public health.

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 "Lynn M. Dyer". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Lynn M. Dyer
President

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