



September 8, 2011

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100



Subject: Draft General NPDES Permit for Small MS4s (Phase II Permit)

Dear Ms. Townsend and Members of the Board:

On behalf of the California Grocers Association (CGA), the California Retailers Association (CRA), and the California Restaurant Association (CRA), we write to respectfully express our associations' concerns on the draft General NPDES Permit for Small MS4s (draft Permit).

The California Grocers Association (CGA) is a nonprofit, statewide trade association representing the retail food industry since 1898. CGA represents approximately 500 retail members, operating more than 6,000 food stores in California and Nevada and approximately 300 grocer supplier companies. Retail membership includes chain and independent supermarkets, convenience stores and mass merchandisers. Traditional supermarkets alone employ more than 300,000 California residents.

The California Retailers Association (CRA) is the only statewide trade association representing all segments of the retail industry including general merchandise, department stores, mass merchandisers, fast food restaurants, convenience stores, supermarkets and grocery stores, chain drug, and specialty retail such as auto, vision, jewelry, hardware and home 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.

With more than 22,000 member restaurants, the California Restaurant Association (CRA) is the definitive voice of the California restaurant and hospitality industry and has served to protect and promote its success since 1906. The restaurant industry is one of the largest private employers in California, representing more than 1.4 million jobs. Restaurants produce more than \$58 billion in sales annually and generate more than \$4.5 billion in sales tax for the state.

13.1 → We have conducted a review of the extensive draft permit order and found it contains provisions (section E.11) requiring local municipalities to not only inspect our member companies' business locations, but will require, retroactively, the installation, implementation and maintenance of 11 categories of stormwater Best Management Practices. The permit goes on to list the following categories of BMPs that must be implemented by our member companies:

- a. Minimize Exposure
- b. Good Housekeeping
- c. Maintenance
- d. Spill Prevention and Response Procedures
- e. Erosion and Sediment Control BMPs
- f. Management of Runoff
- g. Salt or De-icing Material, Storage Piles or Piles Containing Salt
- h. Employee Training
- i. Non-Stormwater Discharges
- j. Waste, Garbage and Floatable Debris
- k. Dust Generation and Vehicle Tracking of Industrial Material

While many of the BMPs cited are actions that can be easily implemented, we are highly troubled by those BMPs such as item a. Minimize Exposure and item f. Management of Runoff which would require extensive site work modifications. The following elements contained within these items raise serious questions:

- 13.2 →
- Item a.1 requires locating manufacturing, processing and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance and fueling operations) indoors or under protective covering and including the use of grading, berming or curbing to prevent runoff of contaminated flows and divert runoff away from specified areas.
- 13.3 →
- Item f. states "Industrial/Commercial facilities shall divert, infiltrate, reuse, contain, or otherwise reduce stormwater runoff, to minimize pollutants in discharges."

13.4 → It is unclear how our member companies are to practically implement these requirements without significant site modifications. What if our local planning agency were to prevent a business from installing new roofing structures to cover portions of a site due to setback or aesthetic issues? Would the business be fined? There are no allowances in this permit for infeasibility for cost or other issues that could come up. Besides the costs associated with the BMPs themselves, our members would possibly be subject to entitlement, permitting and processing fees by local planning and public works departments. Further, will the retrofitting requirements be exempt from CEQA or will they be required to prepare environmental documentation as well?

13.5 → An economic analysis has not been prepared by the State Board and we find it difficult to fully understand the fiscal impacts to our member companies. It is unrealistic to expect that our members can afford to implement these draconian requirements; especially without being able to fully understand the fiscal impacts. We respectfully request the State Board remove the retrofitting requirements from the draft Permit.

13.6

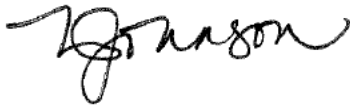
→ Lastly, we are very concerned that the State Board has not made any attempt to notify the business community of these regulations. We only recently were made aware of this permit through the efforts of others. The State Board must conduct an analysis of the fiscal impacts to the business community and to the State as a result of these new regulations.

Thank you for your consideration of our comments.

Sincerely,



Kara Bush
Manager, Government Relations
California Grocers Association



Missy Johnson
Vice President, Government Relations
California Retailers Association



Matthew Sutton
Senior Legislative Director
California Restaurant Association