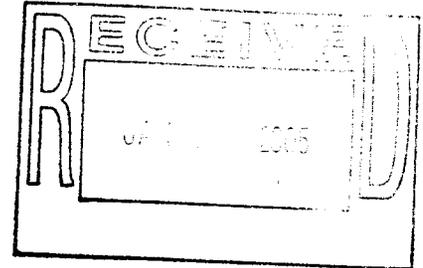


**California  
Bag & Film  
Alliance**

1029 J Street, Suite 300  
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(916) 441-4373

January 17, 2005

Michael Leason, Supervisor  
Plastic Recycling Technologies Section  
California Integrated Waste Management Board  
1001 I Street  
Sacramento, CA 95814



Dear Mr. Leason:

The members of the California Bag and Film Alliance (CBFA) support the concept of increasing diversion of plastic film and bag products through voluntary approaches sponsored by industry or individual plastic manufacturers. However, the CBFA has serious questions regarding the draft recommendations that the CIWMB is proposing to the California Legislature. CBFA is a coalition of major plastic bag/film manufacturers, recycler, end users, and material and machinery suppliers in California and across the U.S. The plastics industry in California employs over 137,000 representing more than \$27 billion in production in the State.

We applaud the efforts of the CIWMB staff to think outside of the box and develop innovative approaches to landfill diversion. We especially appreciate the changes to the original September recommendations that called for mandatory recycled content levels or penalty of a mil tax on those products. CBFA has been on record supporting an approach which allows individual industry segments to participate voluntarily within a framework of rational regulations in new and innovative programs to divert film plastics.

Our questions and concerns regarding the new approach center on the difficulties that the industry will face in negotiating Memorandums of Understanding (MOU); implementation of the steps necessary to achieve diversion goals; responsibilities of ALL parties designated in the recommendations to achieve the diversion requirements; and ambiguities contained in the written recommendations.

**MOUs:** The recommendations call for the Board to negotiate MOUs with film plastic industry stakeholders including "manufacturers, distributors, retailers, waste collectors, recyclers, reprocessors and local and state government agencies". Successful negotiation of the MOU is necessary to avoid the penalty of a mil tax being placed on the plastic products. **How does the board envision successful negotiations with ALL of these entities? What happens if the waste haulers or recyclers do not agree on the tactics necessary to divert film? Reprocessors and the trash bag**

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**manufacturers have at times been at odds over plastic recycling issues – how will the board force these entities to agree to anything? How will the board make the decision that negotiations have come to a stalemate and were not successful? What if one entity will not agree to anything?**

Relative to this line of questioning, on page 4 of the new report the summarized recommendations say that the “fee would be assessed if MOUs cannot be negotiated with the primary stakeholders or if the diversion goals and targets are not met”. **Who are the “primary stakeholders”?** No where in the report are these entities defined.

**Mil Tax/Fee:** It appears to CBFA members that the MOU process and negotiations are but a step in the already preordained path of assessment of a mil fee on plastic film products. Throughout the summaries of recommendations the mil fee is highlighted as a “primary recommendation” to support increased collection, diversion, recovery, recycling, cleaning and reprocessing of film plastic products. In the Legislative Recommendations section, the report states that “the size of the fee will be dependent on the specific goals that are established.” **Are these the goals established in the MOU process? If not, whose goals? The stated goal of the recommendations is to have film diversion succeed voluntarily, but it appears that the conclusion has already been made that the mil tax will be enacted.**

**Trash Bag Law:** The report and recommendations are very unclear and confusing relative to the suspension or repeal of the current trash bag law. In one portion of the recommendations, the report states that **the trash bag law will be repealed, if a mil fee is assessed in either 2007 or 2009.** In the body of the report, the proposal recommends that **“the current trash bag would be repealed at the time when the diversion targets were either met or the mil fee is implemented for failure to meet those targets”.** In yet another section in the actual Legislative Recommendations, Phase 4 requires the extension of the MOUs and repeal: **“if the MOUs are established and successful at meeting the specified diversion targets, the fourth phase would commence with continuation of the MOUs and establishing new diversion targets. The fourth phase would include the repeal of the current plastic trash bag law.”**

**Does the board envision starting over with new goals, and THEN repealing the trash bag law? What parameters are to be established for new diversion requirements?**

In addition, trash bag stakeholders would be required to negotiate MOUs to divert trash bags from landfills. This does not make any sense: **trash bags are destined for landfills, it is their role. They will never be diverted and source reduction is the**



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**only viable option which supports repeal of the minimum content law to enable manufacturers to return to source reducing the bags.**

**Importers of Affected Film Products:** Finally, the report recognizes the impossibilities of regulating products that are produced outside of the State or U.S., or sold into the state by wholesalers and distributors. **How does the board propose charging the mil fee on these products, or forcing the out of state manufacturers to participate in the MOU process? How will the Board enforce the mil tax or MOUs on wholesalers and distributors?**

In general, CBFA members support voluntary steps to divert film products. Individual CBFA members are promoting recycled content in plastic bags, are working with recyclers and reprocessors to establish advanced diversion programs with their grocery store customers, and are using as much recycled content in plastic lumber products as possible.

However, we believe that the questions that have been raised must be answered before a comprehensive report can be delivered to the Legislature. The CIWMB is the regulatory and policy body that the Legislature is supposed to rely on to develop sound programs.

We believe that it will be next to impossible for the Legislature to enact thoughtful legislation for such a comprehensive section of the waste stream without a solid board proposal. Because of the magnitude of the recommendations contained in this document, we believe that more time must be spent on thinking through the recommendations contained in the report.

In addition, there are many manufacturers of products such as agricultural film and strapping that have no idea they may be regulated in California. CBFA is attempting to communicate with manufacturers that are not aware of the Board proposals, but few believe that this type of regulatory program would be established in such a short time frame.

Sincerely,

A handwritten signature in cursive script, appearing to read "Frank Ruiz".

Frank Ruiz, Chairman  
California Bag and Film Alliance

cc: Members, CIWMB

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