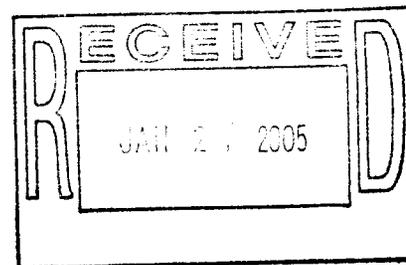




January 17, 2005

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



Dear Mr. Leason:

The Film and Bag Federation respectfully takes this opportunity to provide comments to the California Integrated Waste Management Board, relative to the board's December 17 version of the Plastic Trash Bag Report to the Legislature.

The Film and Bag Federation (FBF) is a business unit of The Society of the Plastics Industry and represents companies throughout the U.S., which produce plastic film and bags including grocery and retail bags, agricultural film, stretch wrap, trash bags, and many more plastic film products.

FBF members appreciate the changes from the December draft report, and the elimination of the mandated recycled content or a mil tax proposal contained in the September version. However, we continue to have many questions regarding the possible problems that would be encountered should the new recommendations become law. We believe that since the report contains such comprehensive new concepts and new film targets, the Board should continue to look at these policy proposals and answer the many questions that are being raised.

Association members are initiating programs to increase grocery bag recycling. This includes providing new comprehensive recycling programs for customers; bag to bag recycling which includes collection, reprocessing and returning recycled content to the bags; and plastic lumber companies that are constantly searching and securing new supplies of scrap plastic.

Our concerns regarding the new recommendations include:

**MOUs:** We are concerned that the broad representation of participants required to be included in the MOU negotiations could never agree and implement the MOUs. It is difficult to imagine product manufacturers, retailers, customers, recyclers, reprocessors,

waste haulers and state and local governments all agreeing on diversion rates and appropriate measures to achieve those rates. In addition, it is unclear how the Board would force manufacturers of these products to participate both in the negotiations, and in the actions necessary to achieve the prescribed diversion targets.

We are very concerned that the Board will be unable to bring all affected manufacturers to the table and require all to participate in the diversion programs. Manufacturers who choose to participate in diversion activities could well end up paying the mil tax anyway, based on a lack of participation by other manufacturers. In addition, it is difficult to understand how the Board will bring diverse manufacturers of the many products affected together. As specified in the waste categories, agricultural film manufacturers could be sitting at the same table as stretch wrap manufacturers to negotiate and agree on diversion rates and tactics. These products are vastly different and the diversion tactics for taking agricultural film out of fields would be very different than removing stretch wrap from the back of a retail store.

**Imports:** The report clearly states that the Board cannot enforce the current trash bag law on importers. How does the Board envision requiring manufacturers out of the country to participate in diversion activities? How would the board levy a fee on the products of these manufacturers?

**Exempted products:** The report exempts plastic film products that are made of materials meeting ASTM D6400. However, the report also states that the Board expects the participants in the MOU process to develop programs and projects to divert exempted products. Why would the manufacturers producing products that are NOT exempt from the fee, choose to initiate programs for materials that ARE exempt? Why would the diversion be necessary for products that meet ASTM D6400 when these products biodegrade down to the molecular level?

**Mil Tax:** The fee would be levied on products if a MOU is not negotiated, or if the diversion targets for that type of film product are not met. The report states, "the size of the fee will depend on the specific goals that are established.... Between 0.4 cents to 1 cent per pound". Whose goals? When would they be established? Are these the goals in the MOU's? We suggest that the board consider offering a tax credit to companies that participate and perform in diversion programs rather than a mil tax as a penalty.

**Repeal Trash Bag Law:** The discussion of whether the trash bag law should or should not be repealed is the impetus for these recommendations. The report recommendations are extremely contradictory. There appears to be several different recommendations on whether the law should be repealed or not. In one portion, the report recommends that the law be suspended and then repealed **if the mil tax is enacted**. Another section of the report suggests that if the diversion targets are met, then new goals should be set and **then** the plastic trash bag law should be repealed.

**Time frames for negotiations:** We believe that the time frames for negotiating the MOUs and achieving the diversion requirements are not realistic. One year for negotiations and two years to achieve the diversion goals is not feasible in our opinion. The proposed participants in the MOU's include such a large, wide, and varied group of affected parties that the board should consider scaling back on the types of participants in the MOU process so there are more homogenous groups negotiating the different MOUs.

We would like to understand how the Board will enlist all manufacturers of all products to participate. FBF is still notifying numerous product manufacturers that they could be regulated and pay a tax in California. These manufacturers do not understand waste issues in California and their education is ongoing.

FBF member companies are now receiving calls from customers including agricultural users, retailers, and packaging companies. These customers are confused and concerned that these recommendations will ultimately lead to a mil tax charged on the products they use, despite any actions taken to increase diversion.

In addition, these customers may begin purchasing bags made outside of the U.S. We are concerned that the implementation of these recommendations may unfairly encourage the consumption of bags manufactured outside of the country, since it does not appear that they could be held to any compliance standard. This will result in manufacturing growth to take place off shore, taking jobs away from the state and country.

We also are concerned that there are many end users who have no comprehension that these proposals are being discussed. These include entities such as consumer product companies that use plastic wrap on products and pallet wrap, retailers, growers, furniture manufacturers, etc.

The Board is considered by the Legislature to be the policy development body for waste management and recycling issues. We recommend that the board ensure that ALL entities affected by these proposals be apprised of the potential impacts. More discussion on these comprehensive proposals must take place before the Legislature considers these recommendations. We are deeply concerned the Legislature will begin to consider these proposals with little understanding of the broad ramifications to companies across California and the U.S. The Board should thoroughly vent all issues surrounding these ideas and be in a position to answer the many questions that the recommendations will raise.

Sincerely,



Michael Vatuna

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Chairman, SPI's Film and Bag Federation

Cc: Members, CIWMB