1 MEETING

2 STATE OF CALIFORNIA

3 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

4 MARKET DEVELOPMENT COMMITTEE

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9 BOARD ROOM

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17 THURSDAY, MARCH 4, 1993

18 10:00 A.M.

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Vicki L. Medeiros, C.S.R.
25 License No. 7871

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A P P E A R A N C E S

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PAUL RELIS, Committee Chairman
4 Board Member

5 WESLEY CHESBRO, Committee Member
Board Member

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JESSE HUFF, Committee Member
7 Board Member

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I N D E X

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1 P R O C E E D I N G S

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3 COMMITTEE CHAIRMAN RELIS: We will call to order
4 the Market Development Committee meeting and ask Ms.
5 Waddell to call the roll.
6 MS. WADDELL: Board Members Chesbro.
7 COMMITTEE MEMBER CHESBRO: Here.
8 MS. WADDELL: Chairman Relis.
9 COMMITTEE CHAIRMAN RELIS: Here.
10 MS. WADDELL: Board Member Huff not present.
11 COMMITTEE CHAIRMAN RELIS: He'll be down
12 shortly.
13 First of all I would like to start off by
14 welcoming you all to the meeting today. We have, I
15 believe, a fairly full Agenda, so we'll try to move things
16 along.
17 One observation, we'll take Item 2, the
18 consideration of Proposed Recycled Trash Bag Regulations,
19 we will put that off to the end of the meeting because
20 that's likely to be a lengthy item. It's hard to determine
21 how long it will take.
22 I would like to move to Item 1, consideration to
23 approve Amendment to Interagency Agreement with Department
24 of Economic Opportunity to appropriate the Recycling Market
25 Development Zone Revolving Loan Funds for 1992-93.

1 MR. RIETZ: Mr. Chairman, John Smith will
2 introduce all of the items today.
3 MR. SMITH: Mr. Chairman and Members, we do have
4 a full Agenda for today. That's no understatement.
5 It's a rather interesting package because we're
6 going to deal with items for all three phases of the
7 Recycling Market Development Zone. We're also going to
8 deal with two items relating to the loan program, and then,
9 in addition, the trash bags.
10 To get started, Agenda Item No. 1, this Item
11 deals with amending an existing Interagency Agreement
12 between the Board and the Department of Economic
13 Opportunity to extend loan administration and monitoring
14 services that they are currently doing for an additional
15 twelve months, and to allow encumbrance of any unspent
16 1992-93 IWMA loan funds.
17 I would like Nadine Ford to present that Item and
18 answer any questions you may have.
19 MS. FORD: Good morning.
20 This Item, as John mentioned, is an amendment to
21 the existing Interagency Agreement with the Department of
22 Economic Opportunity and will extend the term of the
23 agreement for an additional twelve months and allow us to
24 encumber this fiscal year's loan funds with the Department
25 of Economic Opportunity.

The scope of work will remain the same as previously. The Board will continue to retain responsibility for the overall implementation and coordination of the program, including the credit analysis and review of the loan applications.

Department of Economic Opportunity will disburse the funds and manage the program for us.

Just as an update, we have also received this round about $8.7 million worth of loan applications. We will be having Department of Economic opportunity disburse those funds for us.

COMMITTEE CHAIRMAN RELIS: The amount in question, the administration is $50,000, and that was arrived at by --

MS. FORD: By Department of Economic Opportunity.

COMMITTEE CHAIRMAN RELIS: Okay.

COMMITTEE MEMBER CHESBRO: I move the Item.

COMMITTEE CHAIRMAN RELIS: Okay. Call the roll.

MS. WADDELL: Board Member Chesbro.

COMMITTEE MEMBER CHESBRO: Aye.

MS. WADDELL: Chairman Relis.

COMMITTEE CHAIRMAN RELIS: Aye.

We'll fill that vote in. Jesse is absent.

We will make this a consent item.

Okay. Thank you.

1 Move to Item 4.

2 MR. SMITH: My primary staff person for the zones
3 is sick, so I will do my best to wing through these. I
4 will do better than wing it.

5 This Agenda Item No. 4 deals with Committee and
6 Board consideration of final designation for 10 of the 12
7 zones conditionaly designated during Cycle 1. Those were
8 conditionally designated back in June.

9 The vast majority of the zones had one condition
10 to comply with in order to get final designation, and that
11 was complying with the California Environmental Quality
12 Act. The conditional approval is allowed in our
13 regulations, and that's the way that they were approved.

14 Ten of the twelve now have completed their CEQA
15 requirements. According to our regulations, they must
16 petition the Board to get the final designation.

17 Once they have obtained final designations, then
18 they can get the full benefit of programs under the Board's
19 Zone Program, including the issuance of low interest
20 loans.

21 The list of the ten zones that have completed
22 their CEQA requirements and petitioned the Board for final
23 designation are on page 16 of your packet. Those include
24 Contra Costa, Long Beach, San Diego, Oroville, Agua Mansa,
25 Glenn County, Sacramento, Porterville, Los Angeles and

1 Merced/Atwater.

2 The two remaining zones, combined Berkeley and

3 Oakland and the Ventura County Zone, will be looking toward

4 final designation or petitioning the Board for final

5 designation probably at the April Committee meeting.

6 What we're asking you to recommend to the Board

7 to allow final designation for these ten zones that I have

8 mentioned. That's the action before you.

9 COMMITTEE MEMBER CHESBRO: If I understand you

10 correctly, the other two have opportunity remaining to

11 comply.

12 Designating these, where we're not leaving them

13 out?

14 MR. SMITH: No, we're not leaving them out. What

15 the regulations do is require, allow an individual zone up

16 to a year to meet their requirements.

17 As they meet the requirements, then we can take

18 them to the Board.

19 Berkeley and Oakland are very close in completing

20 the CEQA process, and Ventura County is very close, too.

21 COMMITTEE MEMBER CHESBRO: Okay. I'll move the

22 recommendation.

23 MS. WADDELL: Board Members Chesbro.

24 COMMITTEE MEMBER CHESBRO: Aye.

25 MS. WADDELL: Chairman Relis.

1 COMMITTEE CHAIRMAN RELIS: Aye.

2 MS. WADDELL: Board Member Huff not present.

3 COMMITTEE CHAIRMAN RELIS: I think we'll make

4 this a consent item as well.

5 Okay. Item 5.

6 MR. SMITH: Item 5 is consideration of adoption

7 of the Recycling Market Development Zones for Cycle 2.

8 I would like to spend a little time. Let me go

9 to the podium to set this up.

10 I would like to spend some time explaining the

11 process that we went through in initially advertising the

12 applications and getting them through the various phases of

13 evaluation.

14 Back in July of last year, we advertised the

15 application cycle. In August, the application phase

16 began.

17 During the application phase, we held workshops

18 throughout the state to assist zone applicants in preparing

19 these applications. We went through a strategy handbook, we

20 prepared for them, in which they could go step-by-step to

21 prepare these applications.

22 From August through the end of the application

23 preparation period, November 30, we were available to

24 individual applicants to work with them in preparing their

25 applications. We were answering all the detailed questions

1 and providing some suggestions on how they might obtain a
2 more complete application.
3 After the application deadline, we went through a
4 three-phase evaluation of these applications. One was a,
5 and I'll go into it in a little more detail, one was -- the
6 first step was checking the applications for completeness.
7 Did the application and the marketing plan include all of
8 the required elements.
9 After that we went through a second phase which
10 was a technical evaluation of each of the applications. In
11 the final evaluation phase included a competitive scoring
12 of the applications based on their meeting the three market
13 development objectives that were approved by this Committee
14 previously.
15 Now, to step back a little bit, referring to the
16 completeness check, the first evaluation phase, we look at
17 the application and the supporting market development plan
18 to see if all of the information required by the
19 regulations, all the parts of that plan and application are
20 there. If they are not there, we send out within fourteen
21 days of receipt of the application a letter spelling out
22 the missing parts, indicating that the information needed
23 to be received within fourteen days.
24 During the next phase, we then evaluated each
25 application based on the technical merits. The

1 requirements for what must be in an application and what
2 must be in their marketing plan is included in our
3 regulations, Section 1705 and Section 1707.
4 These are the requirements we checked. At the
5 end of that phase, on page 22 of your Board packet, we have
6 indicated the six applicants that we received. That was
7 Humboldt County, Southern Alameda County, Central Coast,
8 Greater South San Joaquin Valley, Riverside County and
9 Antelope Valley.
10 After our technical evaluation phase, then there
11 were two applicants that fell out, that did not pass that
12 second evaluation phase. Those included Riverside County
13 and Antelope Valley/City of Palmdale, which was a combined,
14 City of Lancaster, combined zone. These were eliminated
15 because we determined that there were very substantive
16 inefficiencies.
17 We then moved on to the third phase, the scoring
18 phase. We scored these based on the market development
19 objectives that were approved by this Committee at the time
20 that we initiated Cycle 1.
21 Those objectives included the extent to which the
22 zones have the greatest regional effect to stimulate
23 statewide market development. The second objective,
24 paraphrasing, was to the extent that the zone utilized
25 value adding processes to manufacture end products and

1 produce -- to the extent that the zones utilized value
2 adding processes, to manufacture and produce finished
3 products and/or support the use of innovative recycling
4 technology processes to manufacture and produce finished
5 products.
6 The third objective was to select zones that
7 increased local diversion and extend landfill capacity.
8 During this phase, not only did I use the staff
9 in the Industrial Development Section, but we also got a
10 technical assist from the Board's Research and Technology
11 Division. They looked at the objective related to the
12 technology to the extent that there was value adding and to
13 the extend that the zone promoted innovative recycling
14 technologies.
15 We also looked to Local Assistance to help us
16 evaluate the impact the zone programs would have on
17 remaining capacity.
18 After that evaluation, we then came up with the
19 scores for the final applicants. I will put these on the
20 screen right now.
21 (Thereupon Committee Member Huff arrived.)
22 MR. SMITH: I will start with some introductory
23 comments.
24 We felt that the remaining four were very good
25 applications, in fact, superior applications. They were

1 much improved even from the first cycle.

2 As you can see there, the scores are very high.

3 Starting with Humboldt County with 99, and with the fourth

4 place, Greater South San Joaquin Valley with 93 points.

5 I think we saw real good quality again. The

6 other thing that I would like to indicate is that there are

7 three applicants that come to mind that didn't meet the

8 requirements for the first cycle. Those include the County

9 of San Luis Obispo, Monterey County and the City of

10 Visalia. Those are all included now in the one's we are

11 recommending for Cycle 2.

12 San Luis Obispo and Monterey are included under

13 the Central Coast proposal, which included the Counties of

14 San Benito, Santa Cruz, Monterey and San Luis Obispo.

15 The City of Visalia was included in the Greater

16 South San Joaquin Valley application.

17 In addition, another successful applicant for the

18 second round was the City of Fremont. They were included

19 under the Southern Alameda County.

20 We had four that did not meet the requirements

21 during the first round but did for the second round. I

22 would like to indicate that staff worked very hard with

23 those counties that did not make it the first time to

24 prepare a more complete application. It's staff's intent

25 to continue that process with those that may not have

1 passed portions of our technical review this time.

2 COMMITTEE MEMBER CHESBRO: When you say the first

3 time, you mean the first cycle?

4 MR. SMITH: Yes, Cycle 1.

5 What we're asking the Committee to do today is to

6 recommend these four zones for Cycle 2 to the Board for

7 approval.

8 I'm now willing to answer any questions.

9 COMMITTEE CHAIRMAN RELIS: Mr. Rietz, did you

10 want to interject anything?

11 MR. RIETZ: Yes, Mr. Chairman.

12 There is no appeal process in statute or

13 regulations for denials. However, we did just receive a

14 letter from Riverside County this morning. They asked that

15 you continue to consider them in the second round

16 designation process.

17 The Committee may want to consider this letter

18 from Riverside County by having staff rereview the

19 application based upon this letter, and recommend to the

20 Board whether a reconsideration of the denial should be

21 made.

22 If Board staff recommend approval, we would add

23 the county to the list of jurisdictions proposed for

24 approval and would score the application by the next Market

25 Development Committee meeting on April 8.

1 If you would still recommend denial, we would, of
2 course, still work closely with the county in the future to
3 help shore up their application for the next process.
4 Also, in fairness to Antelope Valley, we would
5 also propose contacting them and apprising them of our
6 rereview process, and perhaps they may also wish to provide
7 supplemental information which we could consider.
8 We do have a process issue. We would recommend,
9 especially not having an appeal process, we think that
10 there may be some merit in having that, but we would
11 recommend that prior to the next review cycle, the
12 application, review and approval process be re-evaluated to
13 determine whether the process really helps us achieve our
14 goals for expanding markets for recycled materials.
15 COMMITTEE CHAIRMAN RELIS: Before we get into
16 this indepth, we have a number of speakers, people from
17 Riverside County that have requested to speak.
18 My general inclination would be to follow the
19 track that you've suggested. We could act today on the
20 one's that have clearly been recommended, and then hear
21 Riverside County and their concerns, and then revisit this
22 at the next Committee meeting, if that was acceptable to my
23 colleagues here.
24 COMMITTEE MEMBER CHESBRO: I think it's fine.
25 COMMITTEE MEMBER HUFF: I might get to be

1 comfortable with it.

2 I will say at the outset that I am supportive of

3 Riverside County's presentation. I would be interested in

4 hearing their presentation.

5 I would be interested in hearing their reaction

6 to staff's suggestion. I think maybe I would like to defer

7 judgment until it happens.

8 COMMITTEE MEMBER CHESBRO: I have a process

9 question for staff. The question came up in relation to

10 Riverside County, and I will ask it generically.

11 In the case of recommendation of non-approval, do

12 the deficiencies or problems that that non-approval is

13 based on, were those all included in the original letter

14 that is sent out indicating what the deficiencies are?

15 MR. SMITH: Let me explain the process. Let me

16 step back.

17 By regulations we have fourteen days to

18 completely look at the application and see what is

19 missing.

20 MS. MORRISON: The regulations provide for

21 twenty-one days to be reviewed by staff.

22 MR. SMITH: Okay. The regulations require that we

23 look to see if all the parts are there. There is not time

24 in twenty-one days to have done a thorough evaluation of

25 what is in that application. The regulations only require

1 that we do a completeness check.

2 We get around to the substance of what's in each

3 part of the application and the marketing plan once we get

4 into that second phase.

5 To answer Mr. Chesbro's question, the same

6 information was not in both letters because it was based on

7 different information.

8 COMMITTEE MEMBER CHESBRO: It's a determination

9 that all the pieces are there but not what's in those

10 pieces whether they meet the --

11 COMMITTEE CHAIRMAN RELIS: A checklist.

12 MR. SMITH: Correct.

13 During that period, if there is something

14 missing, the applicant is able within fourteen days to

15 submit that missing information, and we will consider it as

16 a complete packet.

17 COMMITTEE CHAIRMAN RELIS: Okay.

18 Well, we have, for those who came in late, our

19 procedure is you get one of these forms in the back there

20 if you wish to speak, and bring that to the front here and

21 I will call on you.

22 We have Jerry Conley, from the City of Moreno

23 Valley.

24 MR. CONLEY: Thank you, Mr. Chairman, it's a

25 pleasure for me to be here this morning to discuss the

1 Riverside County Recycling Market Development Zone
2 application.
3 I appreciate the words that I just heard that
4 there's a possibility that the State would like to review
5 and perhaps reconsider the application that we have.
6 In response to the first question raised up here,
7 yes. We like that idea for several reasons.
8 Perhaps it would be wise for me, I have copies of
9 the letter that was sent.
10 COMMITTEE CHAIRMAN RELIS: I think all Members
11 got the letter. We have not had much time with it.
12 COMMITTEE MEMBER HUFF: I've read it and
13 memorized it.
14 COMMITTEE CHAIRMAN RELIS: Would you recite it,
15 please?
16 COMMITTEE MEMBER HUFF: I wouldn't want to
17 infringe on his presentation.
18 MR. CONLEY: The letter points out some apparent
19 deficiencies in the application indicating that certain
20 topics were either not discussed or not addressed.
21 I think the letter responds to those issues
22 adequately, at least saying that we felt that we had
23 addressed those issues and that there wasn't anything that
24 we overlooked.
25 In preparation for this morning's meeting, you

1 can well-imagine that I did my own review of the
2 application, and I would submit to you that we did address
3 the issues that were pointed out in the letter that we
4 received on the twenty-sixth. However, we feel that if
5 there is any clarification required for those points, we
6 have a willingness to respond and to work with the State
7 staff at their direction and provide any material that they
8 think is necessary.
9 We received a letter back in December indicating
10 that there were some questions. We responded in a timely
11 manner to that one as well.
12 I think, if I may differ in opinion with staff,
13 that while the application may have room for improvement, I
14 do not believe that there is substantive reason for it to
15 be disqualified. We would respond in a timely manner.
16 We also think given the circumstances in which
17 there were only six applicants for eight designations, it
18 would benefit not only the County of Riverside and the City
19 of Moreno Valley but the State as well for us to approach
20 this application process with technical assistance and an
21 attitude of cooperation. I believe that approach would
22 result in designation of a new successful zone in Riverside
23 County.
24 A few moments ago we heard staff recommend to you
25 that the Agua Manza Recycling Market Development Zone be

1 approved for final designation. The team that put together
2 that application is participating on the team for this
3 application as well.
4 We have made, as a county and as cities within
5 the county, significant commitment to the Recycling Market
6 Development Zone Program. I personally have attended two
7 weeks of training in Oakland in the last six months. I
8 intend to go to the remainder of the training, which has
9 been sponsored by the Integrated Waste Management Board.
10 We are appreciative of that training. In
11 addition to myself, there are other two other county staff
12 people who have attended so that we might better serve the
13 companies and businesses that will be involved in the
14 Recycling Market Development Zone Program.
15 I would like to say, stepping back now from
16 Riverside County, to point out that part of the program
17 belongs to, if you will, to the City of Moreno Valley, how
18 important that elected officials in our county think or in
19 our city think that the program would be for us.
20 I am a Senior Analyst in the Economic Development
21 Department currently working with several companies. I
22 would like to mention five of them, not by name, as you
23 well understand why, but indicate that there are five that
24 we are working with that could locate or expand in our city
25 that would benefit from this Recycling Market Development

1 Zone Program.

2 First is a company that processes wood chips.
3 They would use that in the manufacture of certain types of
4 furniture. They are an existing company in Moreno Valley.
5 We have the ability for them to expand, and I think this
6 RMDZ Program would enhance that ability.

7 There is an aluminum scrap recycling company that
8 is also looking to move into Moreno Valley. They would
9 process anywhere from 200,000 to 300,000 pounds of aluminum
10 scrap each month.

11 Waste Management is going to build a MRF in
12 Moreno Valley.

13 In the last three weeks, I have been working with
14 a company, with the broker for the company, that wants to
15 utilize forty acres in Moreno Valley, provide 200 jobs and
16 process green waste. This is a major Fortune 500 company.

17 In addition, there is a beverage manufacturing
18 plant that would like to move into Moreno Valley. The
19 program would help because they would utilize some of the
20 by-products of their process in conjunction with the green
21 waste and agricultural uses.

22 All of these companies could benefit from the
23 Recycling Market Development Zone. It's my opinion that at
24 least one of them will not come without this benefit to the
25 City of Moreno Valley. That means they will go someplace

1 else and create the jobs in another community.

2 I have a concern about Moreno Valley. I am

3 hopeful that the State recognizes our commitment to the

4 program, and our willingness to be flexible and to work and

5 provide whatever refinements and adjustments or

6 modifications to the proposal or the application that is

7 before you.

8 Again, I do believe that there are no substantive

9 deficiencies or weaknesses in the application. Perhaps

10 there is a difference of interpretation of what we said.

11 Perhaps there are some things that were left out.

12 At any rate, we would provide those. So, I

13 applaud the recommendation from staff that you allow them

14 to review the application and present it again to you in

15 thirty days.

16 We will do whatever they require of us in that

17 thirty-day period to bring our application to the point

18 where they are happy with it and willing to propose it to

19 you for recommendation to the full Board. Thank you for

20 your time.

21 COMMITTEE CHAIRMAN RELIS: Any questions?

22 COMMITTEE MEMBER HUFF: No questions of the

23 witness.

24 I do have a process question. Assuming then that

25 four go forward, Humboldt, South Alameda, Central Coast,

1 Greater South San Joaquin, they would go to the full Board
2 at the end of the month, and this one would be a separate
3 time line, and theoretically could go to the full Board in
4 April; is that correct?
5 MR. SMITH: That's correct, Mr. Huff.
6 COMMITTEE MEMBER HUFF: Any problem with that?
7 MR. SMITH: There's no problem with it.
8 We can ask legal if there is a problem.
9 MS. MORRISON: There is no set date for actual
10 designation of zones.
11 COMMITTEE MEMBER HUFF: Okay. Well, then I will
12 be willing to move that we direct staff to work with
13 Riverside County with the objective of bringing back an
14 application that is approvable next month.
15 COMMITTEE CHAIRMAN RELIS: Do you want to hear
16 the rest of the speakers?
17 We have two other presentations.
18 COMMITTEE MEMBER HUFF: Who do we want to hear?
19 COMMITTEE CHAIRMAN RELIS: We have Riverside
20 County and Southern Cal Edison that wants to speak to
21 Riverside and the Palmdale/Lancaster.
22 COMMITTEE MEMBER CHESBRO: I think that's
23 premature myself. I don't think that we have heard staff's
24 responses. We have had a very short time frame to hear the
25 issues, and we haven't heard staff's response to Riverside

1 County's letter.

2 I would like to hear the facts before deciding

3 which direction we go.

4 We do have a process. I don't want to just throw

5 it out the window.

6 COMMITTEE MEMBER HUFF: I did not suggest that we

7 would.

8 COMMITTEE MEMBER CHESBRO: I think your motion

9 sort of leaned that way.

10 I'm certainly not against designating Riverside

11 County. I'd like to find a way to designate them, too.

12 COMMITTEE MEMBER HUFF: I said the objective. I

13 didn't say the objective was necessarily going to be met.

14 COMMITTEE MEMBER CHESBRO: I want what we hear

15 from staff to be objective. I would hope that we reach the

16 same point that you're talking about, but I want them to

17 give us what they think is objective information, and we

18 will decide accordingly.

19 But I would like to hear from the other

20 representatives that traveled up here today.

21 COMMITTEE CHAIRMAN RELIS: Okay. Kevin Palmer,

22 from Riverside County.

23 MR. PALMER: My name is Kevin Palmer. I'm with

24 Riverside County in the Economic Development Agency. I'm

25 here on behalf of Lori Moss, who is the Zone Coordinator

1 for the proposed zone that you have considered or the staff
2 has considered at least.
3 Basically, I just want to amplify some of the
4 things that Jerry indicated before and maybe expand on a
5 little bit.
6 I think one of our biggest concerns in terms of
7 staff's evaluation of our application is that you have to
8 bear in mind that we already have an approved zone within
9 the County of Riverside, and that was the Agua Manza Zone
10 talked about earlier.
11 The application that you received with regards to
12 this new zone was modelled somewhat after that successful
13 application. So, if, in fact, there had been some changes
14 from Cycle 1 to Cycle 2, I don't think any of those sort of
15 things were brought to our attention.
16 We're certainly willing to address those. We
17 want to make it clear that obviously we want to cooperate
18 with staff and make that application as complete as
19 possible.
20 We were working with what we had done previously
21 and making it better, obviously, to accommodate this new
22 application. That is what I wanted to center the comments
23 around.
24 I also want to indicate, too, that I know one of
25 the priorities of the setting up a RMDZ is to try to show a

1 regional benefit. I think it's very clear if you look at a
2 map, Riverside County is the second largest county in the
3 State of California. It stretches almost from the coast
4 line clear to the Arizona border.
5 The proposed zone has sites within that entire
6 county stretching from one end to the other. If that is not
7 regional benefit, I do not know what is.
8 We need to reflect that that is one of the goals
9 of why we set that particular zone up. Again, that was from
10 staff, staff here, too, that encouraged us to try to
11 amplify that regional benefit. I think that is what we
12 tried to do.
13 I wanted to indicate that. That basically all I
14 have to say.
15 COMMITTEE CHAIRMAN RELIS: Okay. Questions?
16 Dina Lane from Southern Cal Edison.
17 MS. LANE: That you. It's a pleasure to be here
18 this morning. It's my first time before you illustrious
19 people, so please forgive me if I'm a bit nervous.
20 I'm the Project Manager for Business Retention
21 and Economic Development Programs for Southern California
22 Edison. I'm here today to support both the
23 Palmdale/Lancaster application and the Riverside
24 application.
25 Southern California Edison is committed to

1 supporting both RMDZ applications in their efforts to
2 successfully implement recycling activities. Included in
3 our commitment of support is an offer to leverage Edison's
4 resources to both identify market targetted industries and
5 extend Edison's business retention program services and
6 incentives.
7 Southern California Edison's service territory
8 covers approximately 15,000 square miles within Central and
9 Southern California. I'll leave you some material that
10 will show you a map of our service territory.
11 RMDZ designations have been granted to
12 communities within our service territory, about seven RMDZs
13 have been designated within our service territory,
14 consisting of approximately 2,000 square miles, five of
15 those in Southern California.
16 Because RMDZs are a vehicle to encourage and
17 jump-start a new industry, recycling, reduce costly
18 landfill activities and create new jobs, we strongly feel
19 that a greater effort ought to be made to designate RMDZ
20 areas in Southern California.
21 Southern California has experienced a
22 disproportionate share of job loss. Approximately 90
23 percent of the 800,000 jobs lost in California since 1990
24 have occurred in Southern California.
25 Additionally, the majority of the waste stream

1 occurs in Southern California. If the Riverside and
2 Palmdale/Lancaster applications are not approved and the
3 current remaining applicants were approved, the State would
4 have a total of sixteen RMDZ zone areas of which a
5 disproportionately small number would be in Southern
6 California.
7 As I understand, the RFP process was developed to
8 determine the potential capability and experience in
9 successfully operating an RMDZ. However, no consideration
10 was given to actual experience.
11 Both Riverside and Palmdale/Lancaster applicants
12 have experience and a track record, a very successful
13 operation, and have demonstrated commitment toward
14 recycling. We believe both applicants have merits beyond
15 those articulated within the respective proposal that
16 should be in a real world sense considered.
17 As an example, Lancaster started their recycling
18 activities some eight months ago. Already they have
19 allocated a sizable budget toward developing the
20 infrastructure necessary to promote recycling. They have
21 identified six companies ready to participate in recycling
22 activities, and the further explanation goes on.
23 Riverside received an RMDZ designation some six
24 months ago, covering the Agua Manza Enterprise Zone. As
25 you heard earlier, they have already started identifying

1 potential businesses.

2 To summarize -- by the way, one of the new

3 applicants being considered for recycling activity is in an

4 area that would be considered in this new application.

5 That business would create some 1,000 jobs should it go

6 through.

7 COMMITTEE CHAIRMAN RELIS: Where is that?

8 MS. LANE: That would be located in an area not

9 in our service territory but certainly within the new

10 application that Riverside submitted.

11 The effect of not approving this RMDZ designation

12 to this Riverside application may impact that relocation

13 effort.

14 To summarize my points, Edison strongly supports

15 both the Riverside and the Palmdale/Lancaster RMDZ

16 applications because the majority of the waste stream

17 occurs in Southern California; Southern California has and

18 continues to experience the majority of job loss in

19 comparison to the State at large; RMDZ designations in

20 Southern California are disproportionately smaller when

21 viewed in need and waste stream; both applicants have

22 demonstrated capability and experience to operate a RMDZ

23 program; the RFP process did not consider actual

24 experience, and due to an interpretation did not adequately

25 address the applicants strengths; both proposals

1 demonstrate a broad regional impact.

2 In closing, I appreciate the opportunity to

3 present input and strongly encourage your recommendation

4 for approval today of the Riverside and Palmdale/Lancaster

5 RMDZ Zone applications.

6 I'm going to leave you additional material that

7 we have. One is a migration report, some marketing

8 material and a map of our service territory.

9 COMMITTEE CHAIRMAN RELIS: Questions?

10 Is there anyone else who wishes to speak on this

11 Item?

12 Discussion.

13 COMMITTEE MEMBER CHESBRO: Mr. Chairman, I would

14 move that we approve the four that staff recommended and

15 forward them to the Board, and we schedule discussion of

16 the other two, Riverside County and Antelope Valley, at our

17 next Committee meeting in April, and direct staff to

18 prepare a response to Riverside County's letter and

19 testimony today, and also notify Antelope Valley of the

20 opportunity to submit additional arguments about why they

21 should be designated.

22 COMMITTEE CHAIRMAN RELIS: Well, I was going to

23 just add a perspective that what we have heard today speaks

24 to the issue that we're still working out the bugs of this

25 process, of our review process.

1 We want to make sure that, what we're really on
2 target of what are we after here? We're after diversion,
3 and we're after businesses that will achieve measureable
4 progress in meeting our mandates.
5 We don't want to get completely hung up on --
6 that's the forest that we're after. That is more of a
7 perspective.
8 I think that staff needs to clarify as well an
9 appeal or approach if there is disagreement on process
10 issues how are we going to handle that more formally. I
11 respect staff's evaluation. That's why we have a Board to
12 have these types of opportunities to reconsider or
13 re-evaluate.
14 COMMITTEE MEMBER HUFF: Now, as I understand,
15 both Riverside and Antelope Valley were told that their
16 applications were failed or rejected?
17 MR. SMITH: They failed in the second phase of
18 the evaluation, that would then eliminate them from
19 competition.
20 COMMITTEE MEMBER HUFF: Is your motion in effect
21 to say that they have not failed yet?
22 COMMITTEE MEMBER CHESBRO: I think from my
23 standpoint, they will not fail until the Committee or Board
24 chooses not to designate.
25 COMMITTEE MEMBER HUFF: They have been told that

1 they failed.

2 COMMITTEE CHAIRMAN RELIS: Would we suspend

3 that?

4 COMMITTEE MEMBER CHESBRO: We will suspend that

5 until the Committee can consider it at the next meeting.

6 COMMITTEE MEMBER HUFF: Riverside and Antelope be

7 notified, and the Committee has determined that they have

8 not failed, that they shall have an opportunity to present

9 matters on their behalf.

10 COMMITTEE MEMBER CHESBRO: I don't want the

11 terminology to imply that we've prejudged it. It's a

12 neutral situation.

13 COMMITTEE MEMBER HUFF: I tried to pick neutral

14 words.

15 COMMITTEE CHAIRMAN RELIS: Okay. Are we at a

16 motion now to vote?

17 COMMITTEE MEMBER HUFF: State the motion for my

18 short memory.

19 COMMITTEE MEMBER CHESBRO: The motion is that we

20 recommend the four listed, as staff recommended for this

21 month's Board Meeting for approval, that the other two

22 items be placed on the Committee's Agenda for next month,

23 Riverside County and Antelope County, we ask staff to

24 review the input from Riverside County and respond to it,

25 and they will also notify Antelope Valley of their similar

1 opportunity to make further arguments, and that we have not
2 at this point, neither we nor the staff at this point have
3 applied a failed designation to either of these
4 applications.
5 That's the motion.
6 COMMITTEE MEMBER HUFF: I suppose I can live with
7 it.
8 COMMITTEE MEMBER CHESBRO: May I make a
9 suggestion to staff that doesn't have to be in the motion?
10 I think we did this last year.
11 We prepare some information for Board Members and
12 the public on the zones that are recommended for approval
13 so that we know in detail the areas that are covered and
14 what it is that they propose to do.
15 A public presentation to help inform all the
16 interested observers, especially Board Members, of what is
17 going on with those zones. This is for the Board Meeting
18 for the four and presumably the others.
19 MR. SMITH: We're in the process of getting that
20 prepared.
21 COMMITTEE CHAIRMAN RELIS: Could I add a point,
22 could you clarify at the next meeting how much assistance
23 we give applicants, since I believe our roll is to
24 facilitate?
25 We're really after making these things happen. I

1 would like to know how we go about doing that, and is it
2 equal to all the applicants, what's staff's procedure
3 there?
4 MR. SMITH: Yes. We will do that, Mr. Chairman.
5 COMMITTEE CHAIRMAN RELIS: Okay.
6 COMMITTEE MEMBER HUFF: Two things. First of
7 all, let me express my concern, and it's not a reflection
8 upon staff or anyone else, but it is a concern that all
9 four of these applicants that we are going to be forwarding
10 are north of the Tehachapis.
11 I think that everyone realizes where the people
12 live. That's a concern of mine. Geographic balance is a
13 concern of mine.
14 I know staff cannot manufacture applications
15 where none exist. I'm not sure that there isn't something
16 that we should be doing here to get a better geographic
17 spread.
18 Secondly, I would like to have some indication
19 from someone representing Riverside that they can live with
20 this process.
21 I just got a nod.
22 COMMITTEE CHAIRMAN RELIS: All right. Let's have
23 the roll call.
24 MS. WADDELL: Board Members Chesbro.
25 COMMITTEE MEMBER CHESBRO: Aye.

1 MS. WADDELL: Huff.

2 COMITTEE MEMBER HUFF: Aye.

3 MS. WADDELL: Chairman Relis.

4 COMMITTEE CHAIRMAN RELIS: Aye.

5 This will be deferred until the Committee Meeting

6 and not go to the Board.

7 The zones will be approved before the Board and

8 sent to the Board, and the Riverside, Antelope will come

9 back to the Committee.

10 Okay. Item 6.

11 MR. SMITH: As you recall, at the January Board

12 meeting, the Board directed staff to re-evaluate the number

13 of zones we're to designate for Cycle 3. They wanted some

14 more information upon which those numbers are based.

15 In this Item staff prepares that analysis and

16 makes a recommendation in terms of how many zones should be

17 designated for Cycle 3. In preparing this Item, we went

18 back to background information on how our original goal of

19 forty zones for five years was established, and then why we

20 decided on the eight per year.

21 When staff originally looked at this issue, they

22 looked at the number of zones and availability of

23 sufficient loan funds for all the zones. They came up in

24 their evaluation that eight would be sufficient to take

25 care of, to fully utilize the $5 million per year in loan

1 funds.

2 So, staff initially then, when we first updated

3 the Board at that time because we did not have the

4 Committee, recommended prior to initiating Cycle 1, or at

5 the time of initiating of Cycle 1, that we look at forty

6 during the entire five-year period and eight each year.

7 As the Committee Members recall, last year we

8 designated, because of the good quality of the

9 applications, we designated twelve instead of eight. We

10 have the anomaly now where we have received six, not the

11 full eight, for this round.

12 So, if we go with the four for the second cycle,

13 and if we find merit with the other two after further

14 evaluation, and have a maximum of six for the second cycle,

15 we would still have approximately between eighteen and

16 twenty zones designated so far.

17 We think that still keeping with the eight zones

18 for the next cycle that we should have sufficient staff

19 both to take care of supporting the existing zones, as well

20 as providing needed support for the application three

21 cycle.

22 What we're recommending is that there be a

23 maximum of eight designations allowed for this coming

24 cycle.

25 Any questions?

1 COMMITTEE CHAIRMAN RELIS: Any questions of
2 staff?
3 COMMITTEE MEMBER HUFF: No.
4 COMMITTEE CHAIRMAN RELIS: Okay. Anyone here to
5 speak on this issue?
6 Okay. I wonder if we might just reference that
7 since the point is up to eight because of our budgetary
8 situation.
9 COMMITTEE MEMBER HUFF: I think that it's very
10 appropriate that the motion really ought to be up to eight,
11 contingent upon the resources being there.
12 COMMITTEE MEMBER CHESBRO: I'm happy to support
13 that, but I do not want to imply the prejudgment that the
14 resources won't be available, because I will continue to
15 say that this is the number one priority of the Board.
16 My intention is that we have resources for eight,
17 but not knowing what the future holds for the totality of
18 our problem, budgetary problem.
19 COMMITTEE MEMBER HUFF: I think that no one has
20 intention that we have resources for less than eight on the
21 Board.
22 Unfortunately, we're not masters of our fate in
23 this area.
24 MR. SMITH: I need to correct the record.
25 We're looking at advertising eight. That would

1 be what our recommendation would be.

2 COMMITTEE MEMBER HUFF: I would think that our

3 advertisements, depending on whether this, in fact, is up

4 to the Committee, is that our advertisement indicate up to

5 eight.

6 COMMITTEE MEMBER CHESBRO: And there should be a

7 reference to depending on resources available, financial

8 and staffing resources.

9 COMMITTEE MEMBER HUFF: That's appropriate. We

10 just can't go out to the money tree in the parking lot.

11 COMMITTEE CHAIRMAN RELIS: Is that a motion?

12 COMMITTEE MEMBER HUFF: It's a motion.

13 COMMITTEE MEMBER CHESBRO: I second, but let me

14 continue the conversation that we were having a moment ago

15 and say that I think we will have a heck of a lot to do

16 with resource allocation.

17 It's encumbent upon the Board to make the case

18 that market development in the zone programs is critical

19 for the success of 939 and our responsibilities.

20 COMMITTEE CHAIRMAN RELIS: We have just adopted

21 our market plan at the last Board meeting. Certainly the

22 zones speak to the economic development portion of that and

23 also to diversion.

24 I think we are all on the same page on this one.

25 COMMITTEE MEMBER CHESBRO: As long as we're not

1 sending budget proposals over to proposed resource
2 reduction, that's the concern that I have.
3 COMMITTEE CHAIRMAN RELIS: Okay. Take the roll.
4 MS. WADDELL: Board Members Chesbro.
5 COMMITTEE MEMBER CHESBRO: Aye.
6 MS. WADDELL: Huff.
7 COMMITTEE MEMBER HUFF: Aye.
8 MS. WADDELL: Chairman Relis.
9 COMMITTEE CHAIRMAN RELIS: Aye.
10 Okay. We will make this consent. It's consent.
11 Item 7.
12 MR. SMITH: Mr. Chairman, I'm going to introduce
13 this Item, and then Jill Larner will present the Item.
14 Just as an introduction, this is a regulatory
15 package that will come in the current loan program. The
16 changes that we're looking at is adding a million dollars
17 to the Recycling Market Development Zone Program from our
18 Tire Fund so that that additional million can be utilized
19 by zones to promote tire recycling projects.
20 The other thing we're looking at is reduction in
21 the loan application fee and when that fee is collected.
22 With that, I'll turn it over to Jill.
23 MS. LARNER: Good morning. This Item is a Public
24 Workshop concerning the amendments to the Recycling Market
25 Development Zone Revolving Loan Fund Regulations.

1 After my brief presentation, there will be
2 opportunity for interested persons in the audience to
3 address the Committee. If they wish to do that, there are
4 forms on the back table for them to fill out prior to
5 that.
6 On the changes to the regulations, they are two
7 proposed changes. One is to add a section which provides
8 provisions to make loans to projects involving uses of used
9 tires and to fund these projects from the Tire Recycling
10 Management Fund at the Board.
11 The second change is to amend an existing section
12 of the regulations governing loan fees. Specifically, this
13 is to require a nonrefundable application fee of $300 upon
14 application rather than $500 at the time of loan closing.
15 In January, Market Development Committee directed
16 staff to initiate the formal public comment period for the
17 rulemaking. That began on February 5 and will conclude on
18 March 22.
19 At this time, if the Chairman would like to open
20 the meeting for the workshop.
21 COMMITTEE CHAIRMAN RELIS: Let's have the
22 workshop.
23 MS. LARNER: Is there anybody in the audience
24 that would like to address the Committee?
25 COMMITTEE CHAIRMAN RELIS: It's a brief workshop.

1 MS. LARNER: Are there any questions that I can
2 answer on the amendments.
3 COMMITTEE CHAIRMAN RELIS: Having rolled up our
4 sleeves.
5 MS. LARNER: If anyone is interested, there are
6 copies of the text of the regulations and the Statement of
7 Reasons on the back table.
8 COMMITTEE MEMBER CHESBRO: Is this the entire
9 regulatory package?
10 MS. LARNER: This is the amendments.
11 COMMITTEE MEMBER CHESBRO: There was some I
12 remember, we had a whole discussion about the language
13 about the types of projects eligible, and that has been
14 adopted, and this is amendment to that?
15 MS. LARNER: That's correct.
16 MS. MORRISON: These amendments are to the Market
17 Development Loan Program regulations.
18 The other regulations were found in the Tire
19 Program.
20 COMMITTEE MEMBER CHESBRO: Okay. We're only put
21 in the Market Development regulations that have to be here.
22 The rest of the governing language is in the tire
23 regulations. Now I understand.
24 MS. LARNER: We simply reference that program.
25 COMMITTEE MEMBER CHESBRO: Okay.

1 MS. LARNER: If there are no further comments or
2 questions, I'll proceed with the Item.
3 As I mentioned, the forty-five-day comment period
4 began on February 5. So far staff have not received any
5 comments on the proposed changes.
6 If this trend continues until the close of the
7 comment period, staff would like to ask the Committee to
8 consider approving the proposed amendments today, with the
9 condition that no significant public comment is received
10 prior to March 22, so that the Board may act on the
11 regulations at the March 31 meeting, and staff may close
12 the rulemaking file shortly thereafter to submit the
13 package to OAL for review.
14 If the Committee does approve these amendments
15 today, the rulemaking timeline may be shortened by a
16 month.
17 That concludes my presentation.
18 COMMITTEE MEMBER HUFF: I'm not familiar with
19 regulations that elicit no comments.
20 COMMITTEE CHAIRMAN RELIS: We have not seen too
21 many of late.
22 What is it about these that is noncontroversial?
23 COMMITTEE MEMBER CHESBRO: To get right to the
24 point, I move we approve the proposed changes to the
25 regulations and forward them to the Board for the March 31,

1993 meeting, assuming that and provided no significant comment is received prior to closing the comment period on March 22.

COMMITTEE CHAIRMAN RELIS: Call the roll.

MS. WADDELL: Board Members Chesbro.

COMMITTEE MEMBER CHESBRO: Aye.

MS. WADDELL: Huff.

COMMITTEE MEMBER HUFF: Aye.

MS. WADDELL: Chairman Relis.

COMMITTEE CHAIRMAN RELIS: Aye.

We have Item 8.

COMMITTEE MEMBER CHESBRO: Do we have any indication of the level of interest in terms of potential businesses?

MS. LARNER: So far, we have two tire applications. There is interest.

COMMITTEE CHAIRMAN RELIS: Just on that point, I won't mention who it is, but I visited one operation last week on the way down to the Palm Springs meeting, and I was quite amazed by the technology, the ability in this case to utilize crumb rubber, and with the Federal law now that has that procurement requirement for crumb rubber usage, if Federal funding comes down the pike for public works efforts, we ought to be set up.

There ought to be some applications that should

1 be anticipated. These have a lot of diversion potential
2 for the tire problem that we know we have having just gone
3 through the tire regulations.
4 There is some promise out there. Hopefully this
5 program will kick some of these businesses into operation.
6 Okay. We're going to hear from Mr. Boisson.
7 MR. BOISSON: Good morning. I'm Ed Boisson with
8 the Policy and Evaluation Office.
9 This Item is an update on the analysis of
10 emerging market development options. As I see it, there
11 are two purposes to the presentation today.
12 One is just to review in very broad terms the
13 approach that we're taking to this project and to discuss
14 timing, just a little bit, on the final products.
15 Secondly, we want to propose a workshop in April
16 and get some input on that.
17 By way of background, to reiterate some
18 background, in the process of doing the market development
19 plan over the last four or five months and the workshop
20 process, we had a lot of comments from various interest
21 groups regarding the need for strong incentives or
22 regulations to ensure increased demand and other goals
23 associated with the success of recycling.
24 The range of recommendations included different
25 types of advance disposal fees and fee systems in general

1 to generate a revenue as well as provide incentive. There
2 was a lot of talk about the concept of manufacturer
3 responsibility as it's been implemented in Germany and
4 elsewhere.
5 Others included minimum content and utilization
6 requirements as a regulatory approach. Finally,
7 market-based mechanisms, including tradable credit
8 mechanisms.
9 At the same time, there were proposals in
10 Congress through the RCRA process that included something
11 called responsible entities, and I'll return to that in a
12 little bit. At the State level, last year we had AB 2213,
13 which was titled a recycling incentive fee, a form of ADF.
14 All of that is by way of background to illustrate
15 the need to do some sort of analysis of these diverse
16 options.
17 The emerging market development options was a
18 phrase that staff coined as an umbrella title to include
19 all of these options. Our goal is to take a look at them
20 all simultaneously and in order to contrast them with one
21 another.
22 This is going to be complicated by the fact that
23 within each of these options there are many variations, and
24 it can seem very complicated at times. At the same time,
25 there is a need to sort through them and consolidate the

1 key elements of them so that we can do some comparisons and
2 respond to legislative proposals.
3 So, this really calls or points to two important
4 needs. One is do a detailed analysis of each, including all
5 the variations; and the other is to concisely summarize the
6 key elements of each in a comparative format.
7 So, in an effort to do that, I just wanted to
8 mention that what staff receives for the final products of
9 this project are first and foremost of all a summary
10 report, which I envision to be a relatively brief document
11 taking the findings from the other five projects in a
12 coherent similar format, and contrasting each of these
13 option that I'm going to be discussing in a little bit more
14 detail in a second. Our target date for that report is
15 June 1993.
16 Secondly, we're going to do a series of more
17 detailed reports in each of the category areas which will
18 dive into significant amount of detail and explore the full
19 range of options. I view those more or less as background
20 documents to that summary report, which, I think, as we go
21 forward with this the focus will increasingly be on that
22 summary report.
23 Our target for the detailed report is July 1993.
24 We moved it a month back to give us time to pull it all
25 together and, again, to put the focus on that summary

1 report, which will be the comparison of the options, all in
2 one place.
3 I wanted to mention a couple of assumptions for
4 the projects and hopefully get some feedback later on. We
5 talked about this before, but the main goals are to be able
6 to respond to legislative proposals.
7 There is reason to believe that there will be
8 proposals in the RCRA process again over the next year or
9 two. Also, in the California Legislature there is talk of
10 a manufacturer responsibility bill. The California League
11 of Cities is on record as supporting the concept of advance
12 disposal fee of some type. We need to be ready to respond
13 to those.
14 Secondly, we want to provide the Board with the
15 information necessary to objectively compare these
16 approaches with sound information, and also to direct staff
17 to develop our own legislative proposal, if you choose to
18 do so.
19 Finally, just to do our best to understand the
20 potential ramifications of these options, which could be
21 rather complex in some cases, we are going to do our best
22 to sort that out.
23 The general approach to the reports, to the
24 projects in general, is sort of a two-step process. First
25 of all to identify the complete range of options to be

1 complete and to summarize the experience in California,
2 other states and other countries -- we're taking a very
3 broad view on this -- and to find or development some
4 categories, a small number of categories that encompass the
5 range of options.
6 The second part, and the more important part, is
7 to develop some prioritization criteria which really
8 reflect policy goals to use to whittle that list down to a
9 smaller number of options and also to use down the road in
10 evaluating them for their merits.
11 Secondly, we need to develop a common frame work
12 to use to evaluate the options. That frame work would be
13 applied commonly throughout.
14 Finally, to go ahead and evaluate the short list
15 as well as any legislative options that are coming our
16 way.
17 I think just one comment, I was not prepared
18 today to go into the details of the criteria that we may
19 use, although we have made a lot of progress on that.
20 The criteria, though, we are assuming, one
21 assumption is that it is broader than market development as
22 most people generally define market development, and that
23 is to say that one of the most important needs that has
24 been brought out is the need for support of local programs,
25 either in direct funding or in some other way.

1 We're taking it very seriously, as well as the
2 need for increased utilization of materials.
3 I'm putting -- I'm going to go through each of
4 the five areas that we're looking at. I'm going to list a
5 few examples just to illustratve the range of options that
6 fall into each category.
7 I don't mean to make any assumptions about any of
8 them being more desireable than others or anything like
9 that. It's just for illustrating purposes.
10 The other thing about it is we're trying to come
11 up with a rational approach for categorizing these options,
12 and this will hint at the direction we're moving at, again,
13 without making any assumptions.
14 The first project is fee-based incentive systems.
15 Our prime contractor on this is Fuse, Allen and Hamilton,
16 working very closely with staff, and also working very
17 closely with Department of Finance on another project,
18 which is strictly looking at funding mechanisms for the
19 Board. It's the same analysis coming into both of them.
20 Our one primary assumption here is we are taking
21 as a starting point to tell us disposal cost fee study that
22 was conducted two years ago, as well as some staff work
23 done last year in response to Sher's 2213 bill, and the
24 focus is on looking at the practical implementation,
25 implementability, if you will, of some of the advanced

1 disposal site. I'll leave it there.

2 I did not intend to go through this list but to

3 say there are options on the back end as well as the front

4 end, and we intend to look at both, again, without making

5 any assumptions.

6 Okay. I want to say a couple of words about this

7 notion of manufacturer responsibility. We have referred to

8 it at this podium before as responsible entities. I think

9 the preferred term will now be manufacturer

10 responsibility. I just wanted to mention that to avoid

11 confusion.

12 There have been several types of proposals that

13 people have talked about in this category. What is

14 beginning to emerge is a spectrum of options that are

15 included in this category.

16 On the far end, I think it would be safe to say

17 probably on the farthest end, is the German model in which,

18 I think I managed to summarize it in one sentence, and I do

19 not know how successful I was. In essence, it was a set of

20 government regulations which led through a not-too-complex

21 process to industry actually forming a consortium to

22 actively become involved in the collection of secondary

23 materials and funding that policy on their own as well as

24 utilization.

25 I think on the other end of the spectrum is the

1 concept of the utilization rate. This was embodied in
2 RCRA, Senate Bill 976 last year, and it also is included in
3 California Futures Report, which will be heard before this
4 Committee next month, I believe.
5 The basic concept there is that there is a broad
6 utilization mandate for a variety of materials, something
7 like the minimum content reg only more flexible so that
8 manufacturers are required to use materials either in their
9 products or ensure that they're used somewhere else, that
10 in the spectrum that we're talking about, the general
11 principle is that in all cases manufacturers are required
12 to assume some degree of responsibility for the waste
13 associated with their products.
14 That degree of responsibility obviously can vary
15 quite a lot. Again, I just wanted to point out that we're
16 taking a broad view of this, and we're basing the
17 catagories that we're looking at on proposals that have
18 already been out there or implemented. That's all I need
19 to say about that.
20 The next group is Tradable Credit Applications.
21 There are essentially two primary products that we're
22 looking at in this process here.
23 One is the report by California Futures, again,
24 which will be coming out next month, I believe. They are
25 looking at four specific proposals for minimum content

1 requirements, including tradable credit applications.
2 Secondly, we'll have a staff report, which will
3 look more broadly at the whole entire range of tradable
4 credit applications as a market-based mechanism and as a
5 way of promoting, how should I say, making other market
6 development proposals more market-based.
7 Real quickly, the last category I want to mention
8 is environmental labeling. I want to make a distinction,
9 because I feel that this category is really distinct from
10 the rest, because even though there certainly can be
11 environmental labeling component of the other proposals,
12 it's a distinct type of creature.
13 What we're looking at here, probably in the end
14 we will be presenting separately. I have identified four
15 types of approaches here, all of which are in place
16 somewhere in California. Term regulation, we have a law in
17 the books in California, recently upheld by a U.S. District
18 Court lawsuit, with the exception of the term recyclable.
19 We regulate those terms in terms of providing definitions.
20 Other options are to actually certify these
21 terms, as has been done in the State of New York. Products
22 certification, similar to Green Seal or Scientific
23 Certification Systems or the Blue Angel program in Germany,
24 and, finally, awards programs which would focus in on the
25 elite products, the products which are clearly above and

1 beyond the rest.

2 There are other options as well. I just wanted to

3 name a few to illustrate the range of options that we're

4 looking at in here.

5 There one other project in this category, and

6 probably should call them sub projects, and that is to look

7 at the implications of trade agreements, particularly GAP

8 and potentially NAFTA on the ability to enforce some of

9 these laws. That issue has already come up in the case of

10 a California's glass minimum content law.

11 The DEC has identified that as a potential trade

12 barrier. There is a lot of discussion about where this may

13 go. Apparently the focus is on Germany at this point,

14 because they seem to have the most comprehensive law on the

15 books.

16 That is an extremely brief and quick summary of

17 what we are up to. I will go on, and if you have further

18 questions I will go back to those issues.

19 The other area I wanted to address today is the

20 notion of a workshop in April. Staff is proposing to do a

21 workshop. We have a tentative date of April 20. I have

22 cleared it on the three of your calendars.

23 Our vision for this workshop would be that the

24 goals would be to provide a forum to get some input on

25 these range of options that I've just discussed very

1 quickly. Before we get to the workshop, we would have to
2 scale those down to five or six, or some reasonable number,
3 including do nothing as one.
4 We would -- two of the other goals would be to
5 get some input on each of those and to get input on the
6 assumptions that we're making in our study, and, secondly,
7 to identify key issues that we need to make sure we address
8 in our final report.
9 In essence, this is sort of a mid point in our
10 study. We would like to have kind of a reality check to
11 bring some of the issues forward and get the debate going.
12 We envision it to be a full day with a range of
13 well-known experts who know the field well, a small number
14 of representative California interest groups, and then a
15 large number of California players who would certainly be
16 invited to provide testimony at the workshop.
17 We would propose to work with advisors to refine
18 this workshop further over the next week or two.
19 To sum up, again, I just wanted to emphasize that
20 there is a lot going on in this Emerging Market Development
21 category. We're going to work really hard to summarize the
22 key issues and the key options that are available in the
23 summary document, and do our best to include the full range
24 of details in the background, of course, and hopefully to
25 meet those two goals.

1 That completes my presentation.

2 COMMITTEE CHAIRMAN RELIS: Mr. Boisson, I just
3 wanted to point out that at least at the National debate
4 level, often when we talk about the different market
5 development options, those are not discussed in
6 quantitative terms, what would, if you did one thing over
7 another, how does that effect demand in terms of tons or
8 tons diverted, or how big a market is it?

9 Given the fact that we are under mandates here to
10 achieve diversion within a certain time table, in our year
11 2000 time table, and the 1995 time table, we need to do to
12 know to inform these discussions, what the quantitative or
13 diversion implications are.

14 I think that would help us a great deal. I know
15 that may be difficult, very difficult to do in any kind of
16 absolute sense, but if you could present it in terms of
17 frames of reference. Like if we, here are our priority
18 materials, which are identified in the market plan, here is
19 the kind of tonnage diverted we need to meet the mandates,
20 here is what we think, this type of option, what type of
21 impact it could have on meeting that material and the
22 diversion need there, I think that would help us.

23 I have not seen that done in other discussions to
24 date. That is partly because they're so broad. I think we
25 have to keep a California reference here. Local

1 governments and all the people who have testified at the
2 Committees, they are concerned about what will happen here
3 in California, how it will affect their business, how it
4 will affect local governments' diversion programs, and we
5 have to talk quantitative.
6 MR. BOISSON: If I could just comment to that, I
7 was a little bit worried about my presentation today
8 because it was so general. I did not go into any detail at
9 all about specifically what are we looking at.
10 Certainly, I understand what you're saying. It's
11 a high priority, not just on diversion figures but to look
12 at the structure of industry in California, who we have,
13 who we do not have, the materials in our waste stream,
14 what's being collected right now, et cetera.
15 COMMITTEE CHAIRMAN RELIS: There also are
16 possibly options, in the report we identify the job
17 generation potential in the state, and I know that there is
18 certainly a lot of interest, as we have heard from the
19 recycling market zone people earlier, their interests and
20 concerns to get a handle on what actions we would take that
21 might be most conducive to building our industry-base here
22 in California.
23 COMMITTEE MEMBER CHESBRO: I have a strategic
24 point that is indirectly related to the content of these
25 efforts.

1 For a practical standpoint, I view these as
2 interesting discussions that are going to take a while to
3 be taken seriously in the legislative process, become
4 legislation and then, if you watch our process over last
5 two and a half years, take a long time to get moving in the
6 process and implemented as you iron out all the problems
7 and kinks, even if you get good legislation passed.
8 That's not a reason to not pursue it. I don't
9 want to be misunderstood. I think this is very good, and we
10 should continue our work on it.
11 It's also very important for the Board to
12 remember that we have a market crisis facing us, looming in
13 1995, actually looming now but growing progressively
14 potentially more serious. Emergency demand action.
15 Emergency actions that can create demand are
16 needed until we can get more comprehensive solutions going
17 in those, I think were endorsed in one form or another in
18 our markets plan, and they involved increased procurement
19 efforts by State agencies and also broadening the number of
20 materials that are covered by recycled content
21 requirements.
22 I know that is addressed here, but it's addressed
23 in a more comprehensive sense, and I think in the interim
24 need to continue to focus broadening, material by material
25 broadening the range of materials that are covered.

1 We're at the -- Friday, tomorrow, is the last day
2 to introduce bills, and we're into the legislative session,
3 and it's real important to not lose our focus on that and
4 remember that we need to move on those fronts at the same
5 time as we are trying to advance the discussion of more
6 comprehensive solutions.
7 I just wanted to make that pitch on the record
8 here.
9 COMMITTEE CHAIRMAN RELIS: In reference to your
10 comments, Mr. Chesbro, I think that's why, in part, when
11 this workshop schedule was set up it was with the
12 legislative calendar in mind that we would have or be in a
13 position to get the right input and the emphasis of getting
14 some of the quantitative information out.
15 That's one of the most pressing issues.
16 COMMITTEE MEMBER CHESBRO: The two strategies are
17 closely related. I think it's going to be for us to work
18 with the interested parties and the Legislature on one type
19 of solution while we are developing and proposing the
20 comprehensive solutions.
21 We need to act on both levels. It's not to
22 detract from the importance of this at all. It's what is
23 needed to solve the big picture of market development as
24 well as financing problems for other paper recycling and
25 infrastructure.

1 COMMITTEE CHAIRMAN RELIS: I would like to
2 commend you for that. I know you have done some really --
3 and the policy and evaluation office for their work on
4 this.
5 We'll look forward working through the advisors
6 to flush this thing out for the workshop. I think we are
7 into the fundamentals of market structure with this.
8 Any other discussion or comments?
9 COMMITTEE MEMBER CHESBRO: Not at this point.
10 COMMITTEE CHAIRMAN RELIS: That was an
11 information item, so there is no action required.
12 That brings us twenty minutes before the hour. I
13 wonder, we have told the people who are here to speak to
14 the bag content issue that we'll take this up after lunch.
15 What I'm wondering is, whether we could get the staff
16 presentation before lunch and take the testimony beginning
17 after lunch, or would you rather break now?
18 Are the people who are planning to speak on this
19 in the audience? Do you care?
20 Okay. If we could get that part out of the way,
21 then what I would like to do is break for about forty-five
22 minutes, take a short lunch, reconvene at quarter to 1:00
23 and get on with the rest of the day.
24 Can we get the staff presentation?
25 This is Item 2.

1 MR. SMITH: This is the public hearing on the
2 Trash Bag Certification Regulations.
3 As you may recall, we previously brought these
4 before the Committee to get permission to Notice them for
5 the forty-five-day public review period. That period has
6 ended now. We also had an informal or public workshop on
7 these regulations during that forty-five-day period.
8 Jerry Hart of the Buy-Recycled Section has been
9 working very hard writing these regulations and working
10 with the affected parties. I think he has been working
11 very hard, and I would just like to acknowledge that going
12 into this workshop here, and he will present the item.
13 MR. HART: Thank you, John. Committee Members,
14 as John mentioned, my name is Jerry Hart. I'm with the
15 Buy-Recycled program, and along with Chris Allen have been
16 lead on this program since approximately a year ago.
17 These regulations first came before Market
18 Development Committee in November and were approved for
19 publication and to begin the public comment period. Upon
20 submittal to OAL, the regulations were published, first of
21 the year, beginning a forty-five-day comment period, which
22 ended on February 15.
23 On February 11, as John mentioned, we had a staff
24 workshop here at the Board, attended by approximately
25 twenty members of the industry and public. The last few

1 hours were very helpful to staff, and I believe also to
2 industry and the public that attended to have additional
3 opportunity to speak together and respond to each other's
4 concerns and suggestions.
5 With the conclusion of the written comment period
6 on the fifteenth, staff has summarized the written comments
7 and oral comments received and has suggested the revisions
8 to the original document, the original regulations that you
9 have before you. The revisions, again, focus in four or
10 five main areas that have been the focus of the program
11 since the beginning.
12 The initial revision of major concern is to
13 Section 17976(b), in the definitions there, the second
14 definition is an annual aggregate definition to clarify and
15 make it clear to everyone that this is an annual aggregate
16 certification requirement.
17 Also, in that section, the last definition, the
18 definition of a trash bag, the original definition has been
19 revised to exclude hazardous bags. Hospital waste,
20 infectious waste, bio-hazardous waste bags are now excluded
21 from the definition of trash bags.
22 Section 17979(b)(c), page 4, there was in the
23 original document a per shipment certification requirement
24 that manufacturers of trash bags would certify with every
25 shipment the pounds of postconsumer material contained in

1 those bags to other sellers, to non-manufacturing sellers.
2 This requirement has been eliminated, and in its
3 place has been the, an agreement between manufacturer and
4 other seller, how often that information needs to be
5 exchanged. The other seller needs the information that only
6 the manufacturer has regarding the content of the bags. We
7 have allowed the determination of how often that
8 information is transferred to be agreed upon between
9 manufacturer and other seller.
10 On page 7 of the regulations, Section 17982(a),
11 the quality standards involved in the program have been
12 pretty difficult to come by. Again, these standards have
13 not existed before. In the industry, there are
14 specifications on the postconsumer material itself.
15 We have, I believe, taken significant strides
16 towards having a set of standards which are both workable
17 and agreeable to industry and the Board. We will look for
18 additional comment period, two if need be and agreed upon
19 by Committee, to remove or eliminate any other areas that
20 need to be further clarified in the development of the
21 specifications.
22 We are specifically having difficulty with the
23 contamination specification. Very important, very critical
24 to the manufacturer of trash bags, yet equally as difficult
25 to create a standard that will do the job.

1 Overall, the revisions, staff believes are going
2 to contribute a great deal to narrow the differences, to
3 eliminating or at least removing to a great deal the areas
4 that need to be further clarified and further defined.
5 We acknowledge several areas that still need
6 assistance, and, therefore, have requested the approval
7 from Committee to publish these revised regulations and
8 begin another fifteen-day comment period.
9 COMMITTEE CHAIRMAN RELIS: Any comments?
10 COMMITTEE MEMBER CHESBRO: Yes, I do have
11 comments.
12 There are several areas that I have heard through
13 the process that I do not see responded to here, and I
14 wanted to put them out there and ask you about them.
15 First of all, there is the question of the use of
16 the aggregate approach, which, if I recall, we have had
17 both in the past in this process Californians Against Waste
18 and also some manufacturers who currently make recycled,
19 trash bags from recycled materials raise a couple of
20 questions.
21 One had to do with whether or not the aggregate
22 measurement approach would adequately inform consumers when
23 they're purchasing a product, would it be possible, and
24 maybe the answer, if I remember correctly, was that our
25 labeling law will take care of this, but the problem of the

1 bag being considered recycled as part of an aggregate
2 program when, in fact, that particular bag in that box on
3 the shelf is not, whether that is adequately and fairly
4 informing the consumer, and they may be thinking that they
5 are buying a recycled trash bag when they're not, in terms
6 of that specific bag.
7 Is that covered by the labeling law, and, if not,
8 is there any consideration given to how to resolve that
9 problem?
10 MR. HART: In our evaluation of whether to deal
11 with the annual aggregate requirement or to require a
12 requirement of content in each and every bag, that issue
13 was raised.
14 The labeling law, I don't believe the labeling
15 law that is within the Board's jurisdiction would cover
16 that.
17 However, product labeling law certainly would. In
18 other words, they would not be able to label their boxes
19 containing X percent of postconsumer content if, in fact,
20 they did not.
21 Most manufacturers, in fact, one of the
22 suggestions we brought up early on in the workshop was to
23 include a label requirement on the boxes, and that was
24 overwhelmingly turned down. So, I don't think that product
25 labeling is going to be something that we're going to go

1 after nor would it be something that is in the Board's
2 jurisdiction.
3 The issue, I believe, is whether the annual --
4 first of all, if the annual aggregate certification is
5 allowable under the language of the statute, and we feel
6 definitely that it is, and, in fact, that it was the
7 author's intent to create an annual aggregate
8 certification.
9 In addition, there were concerns over the result
10 of an annual aggregate certification on the impact of the
11 law, the amount of postconsumer material that would be used
12 in these trash bags, and staff firmly believes that an
13 annual aggregate certification would result in more
14 postconsumer material being used, being consumed by
15 manufacturers in trash bags than an each-and-every
16 requirement.
17 COMMITTEE MEMBER CHESBRO: The second part of the
18 input that I recall receiving was that there is potential
19 for discrimination against smaller manufacturers who have a
20 limited number of lines, they may be going up against a
21 large manufacturer in selling a particular bag, and because
22 they do not have a broad variety of lines, their bag has to
23 have recycled content in that line, but the other
24 manufacturer may not have to have recycled content in that
25 line.

1 They may be getting their credit from some other
2 part of their aggregate production. Has that been responded
3 to or dealt with, or do you have any thoughts about that?
4 MR. HART: We can't relieve the burden on a small
5 manufacturer if he only had one or two or a limited number
6 of lines.
7 That comes with the statute itself. Whether it's
8 an annual aggregate or an each-and-every responsibility,
9 he's going to have to get that material in those bags.
10 The flexibility that we're allowing is certainly
11 a greater advantage to the medium and larger manufacturers
12 who have multiple lines, they can get the material in any
13 line of bag they choose, wherever it may be easiest or most
14 economical.
15 The burden on the smaller manufacturers --
16 interestingly enough, most of those who are already
17 complying with postconsumer content are the smaller
18 manufacturers. However, the burden on them is actually
19 greater for the each-and-every-bag requirement because
20 there they have no options.
21 The annual aggregate provides flexibility
22 wherever it can. If the manufacturer has only one line, he
23 has to get the material in those bags, regardless of which
24 way we went on this issue.
25 COMMITTEE MEMBER CHESBRO: Okay. That is true,

1 but there remains the question whether that puts them in a
2 potentially disadvantage to someone selling a similar line
3 on the same shelf-space in a market.
4 I remain seriously concerned about that issue.
5 There are other bigger issues to deal with here. I didn't
6 want to leave it untouched. I still remain concerned about
7 it.
8 The other concerns -- I had hoped, maybe they
9 will be here this afternoon, and we don't need to go into
10 this in detail, but I had hoped that CAW was going to be
11 here, but I know tomorrow is the legislative deadline and
12 they are scrambling with bills, and that is probably where
13 Eric Whalen is.
14 They had submitted on January 4 a document which
15 listed three concerns, and they submitted to Committee
16 Members, I got one Faxed to me, and I hope the other
17 Committee Members got it.
18 COMMITTEE CHAIRMAN RELIS: I don't recall it.
19 COMMITTEE MEMBER CHESBRO: It's dated yesterday.
20 It's basically the same as what we got before,
21 implying that there have been no changes in response to
22 those three --
23 COMMITTEE MEMBER HUFF: Could your staff make
24 copies during our thirty-minute lunch?
25 COMMITTEE CHAIRMAN RELIS: Forty-five minutes.

1 COMMITTEE MEMBER CHESBRO: One of the three
2 points was responded to, although not necessarily in the
3 way they suggested, and that was the availability within a
4 reasonable period of time issue.
5 But the other two, one is the definition of
6 recycled postconsumer material, they alleged on January 4,
7 and they are saying again today, that the definition could
8 allow for it to result in five percent rather than ten
9 percent. I would like a response to that.
10 Secondly, they are continuing to say that the
11 odor test is really unfair and discriminatory against the
12 recycling trash bags, and at the very least it needs to be
13 more clearly defined as an offensive odor and not just any
14 odor.
15 Now, either one of those, the point is very
16 subjective. What you think is an odor and what I think is
17 an odor is --
18 COMMITTEE CHAIRMAN RELIS: It would be like wine
19 tasters.
20 COMMITTEE MEMBER CHESBRO: I really think it's a
21 problematic part of the regulations. It's tough.
22 COMMITTEE MEMBER HUFF: Even people in this room
23 could claim that the wearing of perfume is offensive.
24 COMMITTEE MEMBER CHESBRO: The virgin plastic
25 bags may have an odor that some people may find offensive.

1 That's the point.

2 One person's offensive odor is not necessarily so

3 to another person. We're getting ourselves into a tough

4 area.

5 Those two points, I don't see responded to in the

6 staff's presentation. Unless the regs have been changed to

7 the satisfaction, I think they require a response.

8 MR. HART: In response to the first issue, CAW's

9 concern was that recycled postconsumer material, as

10 defined, did not take into account a blend of postconsumer,

11 postconsumer resin and virgin resin, which is very typical.

12 The resins will be blended to meet the ten percent

13 requirement or the thirty percent requirement.

14 What we did in response to their comments was

15 create the term "actual postconsumer material." Thereby, we

16 could not take their suggestion that we define recycled as

17 100 percent postconsumer material. It just would not work.

18 What we did do, in response to their comment, was

19 develop the term "actual postconsumer material," thereby

20 taking into consideration any blend at any percent of

21 postconsumer resin and virgin resin, we are asking

22 manufacturers to report the actual, that is, the

23 postconsumer content of the resin, whatever the blend may

24 be.

25 Therefore, we feel that we have dealt with that

1 situation.

2 COMMITTEE MEMBER CHESBRO: The fact that it

3 wasn't responded to like the other points in laying out

4 what that amendment was and how we were going to deal with

5 the problem kind of raised a little bit of a flag as to

6 whether we fixed it or not.

7 Do you know if CAW is aware of that language?

8 MR. HART: If they're not here, probably not.

9 This is the first time that the revisions have been

10 available.

11 Although, we have discussed the issue on the

12 phone.

13 COMMITTEE MEMBER CHESBRO: In any case, as long

14 as we're assured that ten percent means ten percent and

15 thirty percent means thirty percent and not five percent

16 and fifteen percent, I think --

17 MR. HART: We feel we have taken the steps to

18 ensure that.

19 We received twenty or thirty letters, so, there

20 are many suggestions or comments that were made that I

21 couldn't specifically address in the Agenda Item.

22 Hopefully, people will see the language or suggestions that

23 do appear in the regulations and realize that the revisions

24 have or were based upon some of their recommendations.

25 In regarding the second point, the offensive

odors, the word offensive was included directly from their recommendation.

COMMITTEE MEMBER CHESBRO: So, that has been incorporated?

MR. HART: That's correct.

As you have noted, we're still on a very subjective level. Just this morning I was handed an ASTM test method for odor, and still the word significant is in there and there is no really valid objective way of evaluating that.

That's why, again, staff requests an additional fifteen-day comment period, and hopefully some of these things we can make progress on.

COMMITTEE CHAIRMAN RELIS: Okay.

We'll adjourn and come back at quarter to 1:00.

(Thereupon the lunch recess was taken.)

1 A F T E R N O O N S E S S I O N

2 --oOo--

3 COMMITTEE CHAIRMAN RELIS: We will call to order
4 the Market Development Committee. We're on Item 2.
5 I have a number of requests to speak. Is there
6 anyone else out there, if you would fill out the form,
7 otherwise we will begin with Kim Kramer, from Mobil
8 Chemical.
9 MR. KRAMER: Where do you want us to speak from?
10 COMMITTEE CHAIRMAN RELIS: From the podium. If you
11 would, read your name into the record.
12 MR. KRAMER: My name is Kim Kramer. I'm
13 representing Mobil Chemical Company. I'm here to express
14 their views.
15 I have written comments that I guess have been
16 distributed to the Board. I want to start off by
17 complimenting the staff, Jerry and Chris. This is the
18 first time that I have ever gone through a regulatory
19 procedure, and I want to commend them in front of the Board
20 on their leadership in taking even a novice like me through
21 a rather complicated process like this and making sense out
22 of it.
23 Mobil Chemical Company manufactures and sells
24 virgin resin. We reprocess and sell postconsumer material,
25 and we manufacture and sell trash bags.

1 The only thing that we don't do in this
2 regulatory process is resell the trash bags. We're not a
3 wholesaler or distributor.
4 We think we have a fairly significant share of
5 the market in California, between our consumer products and
6 institutional business. We do operate a facility in
7 Woodland, California that manufactures trash bags as well
8 as some other plastic bags and films.
9 We do have -- we are residents of the State, too,
10 and one of my cohorts is going to be joining me soon from
11 the California plant.
12 Our objectives on this, we submitted very
13 extensive written comments and are making a brief formal
14 statement here. We want to assist you, the Board, and the
15 other interested parties in developing a regulatory system
16 that meets the spirit and intent of the law and is fair to
17 all parties affected.
18 One of the main concerns on this is the use of
19 administrative time, certainly by the Board and whoever is
20 going to be enforcing this, as well as the companies
21 involved. To accomplish these objectives, we have had very
22 extensive written comments, and I will go through some dot
23 points here on some of the things that we still see as
24 areas of concern.
25 The main one is the certification and reporting.

1 The first group is the resellers, to have them certify
2 postconsumer content. We don't see that they can really do
3 this very well. They have no control over it.
4 They are buying from people like Mobil who are
5 manufacturing bags, and the only that they know about the
6 postconsumer content, quite honestly, is what we tell them
7 we put in.
8 So, to have them certifying and being responsible
9 for something that the manufacturers were responsible for,
10 we saw as a redundancy and an inefficiency in the
11 enforcement part of this.
12 Basically, we were trying to come up with a
13 number, and I don't think we have a good number, but I
14 would imagine that somewhere around fifteen trash bag
15 manufacturers probably represent 98 or 99 percent of the
16 bags sold in California.
17 If you would just make the manufacturers
18 responsible for this certification of PCM input, it would
19 really cut down on the number of reports coming into the
20 Board or whoever the enforcement agency is on this, and it
21 would make the auditing much easier.
22 Again, my point there is the efficiency to the
23 State and the cost involved with enforcing it. We would
24 like to see these people exempted from that.
25 The comments we put in were very extensive in

1 trying to get around the wording of the statute itself. We
2 thought we had a good way to do it, saying if a seller or
3 resale or wholesaler, whatever, is buying from a
4 manufacturer who is in compliance, then that would be all
5 that they would have to do. That would be the extent of
6 their responsibility.
7 We still feel that something like that could
8 work. The manufacturers have to be responsible. If the
9 reseller buys from the right people that are complying with
10 this, we think the reseller should be protected on this.
11 The manufacturers, certainly we feel that with
12 the law we have to tell the Board that we intend to comply.
13 We have to tell the people we're selling to that we intend
14 to comply. We want to be able to certify sales on an
15 aggregate basis to both the Board and to the people who we
16 are selling to, our customers.
17 We agree with what the staff has done on this.
18 We don't feel that we should be certifying by shipment,
19 which would be tremendously inaccurate. Really, the
20 systems are not in place for manufacturers to deal with
21 this on a by-shipment basis.
22 PCM sellers, again, their certification, we feel
23 that the way that the PCM system works, we have many PCM
24 sellers throughout the United States. If you look at an
25 example of a PCM seller in Alabama, who is selling to a

1 manufacturer in New Jersey, who ends up selling the bags in
2 California, that PCM seller is really going to have no idea
3 when they sell that PCM product to the manufacturer that
4 it's intended for sale in California, nor at that point of
5 purchase does the manufacturer quite honestly really know
6 where that PCM is going to end up.
7 There are other places out there that require PCM
8 in the United States other than just California, and there
9 are other products other than trash bags requiring this.
10 We would like to see their reporting to the State or to the
11 Board eliminated, too.
12 We see that that would be very inefficient. It
13 would mean a lot of paper coming in, but I'm afraid it
14 would not mean anything to you.
15 We see that the Board, or, again, the enforcement
16 agency has some responsibility in this in communicating the
17 rules and regulations certainly to all the people who are
18 affected. If it's the sellers who have to certify, we'd
19 like that communication to them.
20 I don't know if the latest draft of the
21 regulations has this in there, but an original set did
22 where the Board was going to be giving advice then to
23 resellers on manufacturers who were complying or that they
24 could certify or give this information out, and we could
25 still see that as being a function that the Board could

1 perform that would probably help enforcement of the
2 statute, too.
3 The exemptions, Jerry has already recommended
4 this, the health and safety involved with infectious waste
5 and hazardous waste bags, we really did want to see that
6 eliminated from the definition of trash bags because they
7 do do different things, and there certainly is a high risk
8 to the people who handle those if these bags are not
9 performing properly.
10 We want to exempt the resellers from anything
11 except saying they are buying from the people who are
12 complying.
13 PCM quality specifications, certainly this has
14 been an area that has drawn a lot of debate. There have
15 been a lot of differences of opinion on it.
16 I think that we are getting much closer to
17 something that we can all live with and like. I would
18 still like to recommend at this time, though, that we maybe
19 go with an interim set of specifications now and then
20 really finalize the specifications for 1995 sometime maybe
21 toward the middle of 1994.
22 There is going to be an opportunity in between
23 now and then to do a lot of learning both from a resin
24 manufacturer end, and PCM reprocessor end, and then the
25 people just running the manufacturing process on how to

1 really make these things work.

2 We've talked about clarifying language. I think a

3 lot of that clarifying language is in this redraft. One of

4 the other things that I wanted to comment on that came up

5 earlier was labeling. It is not in the regulations.

6 We have a problem with that in that once we start

7 labeling things for the State of California and for the

8 State of New Mexico and for the State of New York, all of a

9 sudden you sort of lose your efficiencies in the system.

10 We're also concerned, being a national

11 manufacturer and seller of these products, that a label

12 that means something to you in California might mean

13 something totally different to the people in Florida, and,

14 by the way, we could be in noncompliance with what their

15 labeling specifications are if we get into product labeling

16 that's specific to the State of California.

17 It would be very, very difficult. Again, it

18 would a big economic hit certainly to our customers who

19 would then be forced into carry multiple inventories of the

20 same item that basically does the same thing and basically

21 has the same input.

22 I'd certainly be available for any questions. I

23 can see, or I would like to think that you might have

24 questions that I did not cover that I could clarify for

25 you.

1 I am a manufacturer. That has been most of my
2 background with industry. Mr. Chesbro, if I could address
3 your one concern about the small manufacturer, our own
4 individual plants are basically small manufacturers. It's
5 not like we have a plant with twenty different lines where
6 we specialize what we're making.
7 The Woodland, California, plant basically has
8 three production lines. I don't think that they feel that
9 they would be disadvantaged in putting this ten percent
10 postconsumer content --
11 COMMITTEE MEMBER CHESBRO: They will be regulated
12 as part of the whole company, right? They won't be
13 regulated as in individual --
14 MR. KRAMER: We were assuming we were going to be
15 regulated as a plant because the regulations read that
16 way. We would want to be regulated as a whole company.
17 COMMITTEE MEMBER CHESBRO: Maybe I misunderstood.
18 I apologize if I didn't understand that.
19 MR. HART: Yes.
20 The interpretation that staff has proposed is
21 that you would be certifying as a company not per facility.
22 MR. KRAMER: We're starting our good-faith effort
23 in meeting this statute at this time, and what we're really
24 doing is taking the data from each of our individual
25 manufacturing facilities, and they stand on their own, and

1 we're trying to roll it up now into here's an overall
2 company report.
3 We really plan to have the information available
4 at the plant level because if we get into an audit process,
5 we would have to take it back that far or we would never be
6 able to trace through a paper trail what postconsumer
7 material really went in.
8 But changing an input to a line is something that
9 we do on a daily basis going from a clear bag to a red bag
10 to a black or a brown bag. I don't think there is a small
11 bag manufacturer here, but if there is, I would like them
12 to comment on that, too.
13 I don't see that as a tremendous disadvantage to
14 a small manufacturer versus a large one.
15 COMMITTEE MEMBER CHESBRO: Well, I didn't make it
16 up. It came up as a result of input from a smaller
17 manufacturer at one of our earlier meetings. That is why I
18 raised it.
19 It wasn't something that I just --
20 MR. KRAMER: No, no. I'm sure that that's true.
21 If we could work that out, I would certainly like
22 to do that, too.
23 Are there any other questions?
24 COMMITTEE CHAIRMAN RELIS: I think I'll hold mine
25 until I hear from everyone.

1 COMMITTEE MEMBER HUFF: I'm not sure I understand
2 the comment about the labeling.
3 Are you asking for a change there?
4 MR. KRAMER: No.
5 There was nothing in the regulations on that.
6 Again, these comments have been brought up in
7 other workshops and whatever. There is some sentiment to
8 the fact that California maybe should have its own separate
9 labeling as a result of the statute. I feel that as being
10 a pretty inefficient and costly system.
11 COMMITTEE MEMBER CHESBRO: My comments and
12 questions about labeling weren't intended to propose that
13 we make labeling happen.
14 It was just pointed at trying to ensure that to
15 the extent that labeling is going on voluntarily that it's
16 not misleading. That was the issue.
17 MR. KRAMER: Right. We don't want to do that
18 either.
19 COMMITTEE CHAIRMAN RELIS: Okay. Thank you very
20 much. We may call you back up.
21 Gene Schrage.
22 MR. SCHRAGE: It's Gene Schrage, rhymes with
23 groggy.
24 I appreciate the opportunity to address the
25 Board. I would echo Mr. Kramer's commendation of Jerry Hart

1 and the effort he has done on behalf of the Board in
2 developing the draft regulations to this point.
3 I am employed by First Brands Corporation. I
4 also represent by virtue of an alliance that we have formed
5 other independent trash bag producers, specifically,
6 Ironclad, Presto Products and United Plastic Films.
7 Our comments have already been submitted in
8 writing to the Board. I won't try to go over all of those
9 things specifically now.
10 Basically, our comments are from the perspective
11 of what I would characterize as a medium size company. We
12 are not affiliated with resin producers.
13 We don't make our own resin. We buy all of our
14 resin from the outside. That brings a little different
15 perspective, which you will probably see as my comments
16 unfold.
17 We do have some manufacturing facilities in the
18 State; two plants, down in the Los Angeles area, our
19 company and Ironclad. Throughout this process, even though
20 our segment of the industry didn't participate in a
21 material way with the forming of the law, we really didn't
22 have any input at that point, we have been involved right
23 from the start with Jerry in developing the regulations.
24 Our approach has been to corporate to the fullest
25 extent possible in the hopes that we'd come out with a fair

1 and satisfactory result for all of our participants. We
2 think that a large measure of progress has been made in
3 that regard.
4 We certainly think though since we are dependent
5 on purchasing our resin from the outside that one of the
6 things we need to keep stressing to everybody is that
7 quality is very important to us. We sell our product on the
8 basis of a quality product.
9 When we get into using recycled content material,
10 we think the quality of that is very crucial to maintaining
11 the quality of our product. Garbage in is still garbage
12 out. We have to keep the garbage out of the recycled
13 material.
14 Another point I guess I would make is in our
15 trying to acquire this material we find a very limited
16 amount of material available on the outside. There just
17 simply today is not enough material available to us if we
18 were to project this California law nationwide.
19 The 10 percent requirement nationwide is an
20 impossibility. The 30 percent level also has a technology
21 problem that we're struggling with. There's lots of
22 questions that are still unanswered as to how this
23 ultimately will play out.
24 Having said that, though, I think it's accurate
25 to say that we are managing our production today so that we

1 are in compliance with the overall 10 percent requirement,
2 or the content of 10 percent as we understand the
3 regulations, taking into account the aggregate reporting
4 approach.
5 Not all of our bags have recycled material, for
6 technology reasons and for quality reasons, principally. As
7 I said, we are able to get enough material to supply the
8 California market, but we are not able to get it in all of
9 our products in a satisfactory way to maintain our quality
10 in all of our products.
11 We are not currently getting any recycled
12 material from our resin suppliers. They are not able to
13 supply us with this material, even though we have asked
14 them repeatedly.
15 We are getting the recycled material from small
16 recycle companies who have basically come into existence
17 over the last few years.
18 COMMITTEE CHAIRMAN RELIS: You mean like the
19 Envirothenes or companies like that?
20 MR. SCHRAGE: Yes. Those are the one's that we
21 are buying from.
22 They know that we are anxious to buy more. We
23 are aggressively trying to seek sources in the market
24 place.
25 A lot of the film being made for trash bags is

1 made from linear low density polyethylene. This material
2 is not being collected from consumers in any extent at all
3 anywhere in the country.
4 There are some small pilot programs, but it just
5 is not available. It's not being collected.
6 What we are using is basically discarded material
7 that has been used in the so-called industrial sense, it's
8 been stretch wrap, pallet wrap, bottle redemption bags,
9 that sort of thing.
10 As we understand it, it fits your definition of
11 postconsumer recycled material. With regard to high
12 density bottles that are being collected at the consumer
13 level, some of that material is going into high density
14 bags.
15 As far as the linear low density, it's basically,
16 there is no material that has been in consumers' hands.
17 We're managing our quality of the recycled
18 material that we're buying by preshipment samples. There
19 are no standards, as you know in trying to set these specs,
20 there just aren't -- the industry hasn't been there long
21 enough. The practical side of this thing just says there
22 aren't no (sic) ways of measuring quality that are adequate
23 to anybody's definition.
24 That's from trash bag producers standpoint,
25 recycled resin standpoint, from anybody's standpoint. What

1 we're doing is getting preshipment samples.

2 Roughly, a shipment might be 50,000 pounds. We

3 get a preshipment of that in. We make film out of it. We

4 smell it. We tug on it. We test it.

5 We make a determination whether we want to buy

6 that shipment or whether we don't want to buy that

7 shipment. That's basically how it's working.

8 Based on what we know about what's happening in

9 the market place in toto, we suspect that there is some

10 material being sold in the California market today that has

11 heavy metals and other contaminants in it.

12 There is an open question that we want to talk

13 more about at some time when we have had a chance to study

14 it as to whether this represents some kind of a health

15 hazard to the citizens of California.

16 COMMITTEE CHAIRMAN RELIS: What -- you just

17 raised a very provocative point there, and I assume that

18 you have some basis for that.

19 Heavy metal seems unusual.

20 MR. SCHRAGE: No.

21 We've analyzed almost every shipment -- well, I

22 won't say every shipment, but a lot of shipments of

23 recycled material that we have gotten, and in many

24 instances there has been heavy metal content.

25 We have gone back to the people that produce the

1 recycle material, both small and the larger resin
2 producers, and there is admittedly heavy metal content in
3 there which they do not routinely test for or control.
4 This is one of the points that we think should be
5 considered in the overall contamination issue that needs to
6 be studied and addressed.
7 COMMITTEE MEMBER HUFF: Any thoughts as to where
8 it picks up the heavy metal?
9 MR. SCHRAGE: A lot of the non-food packaging is
10 printed with inks that have heavy metals.
11 There is no regulation that requires non heavy
12 metal ink, for example, on anything other than food
13 packaging. The heavy-metal-free ink is a lot more
14 expensive. It also pigments and colors.
15 A lot of the bottles that are made, if you're
16 going to make a bottle with some kind of a yellow or brown
17 or whatever color in it, it's going to be a lot cheaper for
18 you to use pigments with heavy metals in it. People do
19 that.
20 When we get those bottles collected and put back
21 into pellets that we must use, somehow if there isn't a
22 recognition of this concern, that is going to end up being
23 in the recycled material.
24 COMMITTEE MEMBER HUFF: Then if for some reason
25 if it's used in connection with food, you can have these

1 types of concern?

2 MR. SCHRAGE: It's certainly something that the

3 FDA would not allow in food packaging regulation.

4 COMMITTEE MEMBER HUFF: That's true.

5 But who knows what an individual consumer decides

6 to do.

7 MR. SCHRAGE: We do know that consumers use trash

8 bags to package food.

9 We don't know the fullest extent. I'm simply

10 suggesting this is an issue that should be considered more

11 fully, and we would be happy to help cooperate in this

12 whole issue.

13 COMMITTEE CHAIRMAN RELIS: Is staff aware of

14 this?

15 MR. HART: Mr. Chairman, yes, staff is aware of

16 this.

17 It was through some of the earlier workshops when

18 Gene first brought it to our attention.

19 COMMITTEE MEMBER CHESBRO: It should be pointed

20 out that there is no protection with the virgin bags

21 either, because they are not intended for food use.

22 The public is not protected either way. There is

23 no guarantees or regulation that there is not contaminants

24 from a food standpoint in virgin bags.

25 MR. SCHRAGE: Well, I can tell you what our

1 company does as a matter of policy.

2 We have always taken the Household Exemption Law

3 that says basically the manufacturer is responsible for the

4 safety of the product that he produces, not only for its

5 intended use but for all of its known secondary uses.

6 We have known for a long time that food is stored

7 in our bags. Our policy has been that all of our bags

8 produced, and this is true today, will be safe for food

9 storage.

10 Most of the ingredients are FDA approved. The

11 polyethylene resin we buy is FDA approved polyethylene

12 resin, et cetera, inks, pigments, everything.

13 COMMITTEE MEMBER HUFF: You do this simply as a

14 result of --

15 MR. SCHRAGE: Matter of the policy.

16 COMMITTEE MEMBER HUFF: Because the Product

17 Liability Laws in this state are such that you're really

18 well-advised to do it that way.

19 MR. SCHRAGE: Exactly.

20 Specifically since we have knowledge that

21 consumers use our bags to store food.

22 COMMITTEE MEMBER HUFF: If you don't act on that

23 knowledge, somewhere, some time in some court you can have

24 an unpleasant experience, potentially.

25 MR. SCHRAGE: Precisely.

1 COMMITTEE MEMBER HUFF: Lawyers being what they
2 are.
3 MR. SCHRAGE: I won't try to make comprehensive
4 comments today on everything only because I have had this
5 document for a short period of time, which I had to eat
6 lunch in between reading. We will have comments ready in
7 the fifteen-day period.
8 There is an issue on the matter of certification.
9 Our basic position is for simplification purposes, for
10 reasons that we are going to minimize the upset to the
11 market place, we think that the manufacturers of the trash
12 bags should be the one's responsible for certifying as to
13 the recycle content in the bags.
14 We don't believe wholesalers should be brought
15 into this. We don't believe that the recycled resin
16 producers should be brought into this.
17 We will make sure when we buy resin from a PCR
18 producer that it's properly identified as recycled material
19 and qualifies. We will have those records in our records.
20 COMMITTEE CHAIRMAN RELIS: There is a difference
21 of opinion over this, apparently, between the previous
22 speaker and your position.
23 MR. SCHRAGE: No.
24 COMMITTEE CHAIRMAN RELIS: No?
25 Oh, it is consistent. I'm sorry.

1 MR. SCHRAGE: As a matter of fact, I have yet to
2 talk to anyone who disagrees with us, including Jerry.
3 It's just that apparently there is some
4 technicalities in the law that prevent us from really, or
5 preventing the Waste Management Board from really writing
6 the regs in the way that we all agree they probably ought
7 to be written.
8 COMMITTEE MEMBER HUFF: How many times have we
9 heard that?
10 MR. SCHRAGE: We have taken that concern back to
11 the author of the original legislation, and it's our hope
12 that there will be some clarification of the legislative
13 intent within the fifteen-day comment period.
14 COMMITTEE MEMBER HUFF: Did the author give you
15 comfort in that direction?
16 MR. SCHRAGE: I hesitate to put words in his
17 mouth.
18 Let me just say that it's our expectation that he
19 will clarify the issue to the Board within the fifteen-day
20 comment period.
21 I think though that this is a very crucial issue,
22 because it certainly puts an unfair burden on wholesalers,
23 particularly. You can imagine a wholesale outfit that has
24 to take trash bags in and sell to a local grocer and having
25 to do a whole accounting process, whereas the Ralph's

1 Supermarket wholesale operation does nothing since that
2 goes directly through the retail.
3 So, there are two warehouses, side-by-side, one
4 doing a tremendous amount of bookkeeping and the other one
5 doing nothing. It's really not a fair burden.
6 I don't think it adds to the amount of recycled
7 material that is not going to be used.
8 COMMITTEE MEMBER HUFF: It adds to the amount of
9 paper that is recycled.
10 MR. SCHRAGE: It certainly adds to the paper pile,
11 that it does, and to the amount of expense going into this
12 whole trash bag industry.
13 But it really doesn't materially accomplish much
14 more than that.
15 I think that concludes any comments that I would
16 have. I am willing to answer any questions now or later.
17 COMMITTEE CHAIRMAN RELIS: Questions?
18 Okay. Thank you very much.
19 I don't have any other slips. If you intend to
20 speak, would you bring your slip up here?
21 Cindy Drucker, Webster Industries.
22 MS. DRUCKER: I have a little show-and-tell, so I
23 have to set up for a second.
24 Thank you. I'm all set now. I went shopping
25 while I was out here.

1 Good morning. I'm Cindy Drucker. I'm Manager of
2 Environmental Policy for Webster Industries. I would also
3 like to join in commending Jerry Hart and Chris Allen for
4 their fine work in going through all this with us, and also
5 for the opportunity to testify.
6 In general, we commend the Board and the
7 Committee staff for your efforts in forwarding
8 environmental policies. We submitted pretty detailed
9 written testimony, and we will look over the revisions that
10 came out today, and we will probably, I suspect, draft more
11 written comments, but for now I just thought I would focus
12 on a few points.
13 I will give you a little background on us since
14 you might not be as familiar with us as some of our leading
15 competitors. Webster Industries is one of the nation's
16 leading plastics recyclers and manufacturers of state of
17 the art recycled content trash bags.
18 We directly source plastic waste. We clean,
19 reprocess it ourselves and then we manufacture it into our
20 own trash bags.
21 Our Renew trash bags are made with 100 percent
22 recycled plastic, including 60 percent postconsumer waste,
23 and all of the recycled content in there is certified by
24 Scientific Certification Systems.
25 In addition, our Renew bags, for example, are

1 priced 35 to 50 percent less than conventional leading
2 brand trash bags.
3 In addition, earlier this month we introduced our
4 new Ultra Good Sense line. This product contains 35 percent
5 less plastic on average than leading brands and is, again,
6 in addition to being source reduced it contains 30 percent
7 postconsumer waste.
8 What Ultra Good Sense shows is that source
9 reduction and recycled content don't necessarily need to be
10 mutually exclusive. In testing, this bag will lift 120
11 pounds. So, it's quite a strong bag.
12 We have doubled our sales in the last five
13 years. We are currently a $150-million national company.
14 Our success is largely due to the overwhelming success of
15 our Renew bags.
16 Renew, in fact, is now the number two selling
17 brand in several and growing number of major markets across
18 the country, including Sacramento and San Francisco. So,
19 we're quite proud of our product.
20 What this says to us is that clearly Renew with
21 100 percent recycled content is meeting consumers'
22 expectations, that you don't necessarily have to sacrifice
23 quality to make a functional bag out of recycled material.
24 Now, what is the point in telling you all this?
25 Well, the point is that the elements of the California

1 Trash Bag Law are doable and doable today. We feel that
2 the plastic trash bag industry has the technical capability
3 and the resources to incorporate postconsumer content
4 and/or source reduction into every single trash bag sold in
5 California.
6 The industry doesn't need quality exemptions,
7 resin availability loopholes or weak definitions that
8 virtually negate the true and original intent of the law.
9 In fact, some of our competitors who say it can't
10 be done are actually making product today that meet the
11 1993 and 1995 legislative requirements. Without lowering
12 standards or findings excuses, these companies are selling
13 products right here in California that meet the law.
14 These are basic mainstream products sold
15 nationally across the country not just niche products sold
16 locally in California. These are all products sold here
17 right in California, and they are either source reduced,
18 they contain recycled postconsumer material, or both.
19 I just wanted to show you the wide variety of
20 products that are meeting the law today. When people talk
21 about that there aren't standards and we can't find enough
22 available resin, well, we're doing it. I'll just show
23 you.
24 This is a new Hefty product, it is a .5 mil.
25 gauge that meets the 1995 law. This is a First Brands

1 product that is .95 mil., so that again would be under a
2 mil.
3 This is a Hefty scented draw-string bag. You've
4 probably heard some argument that draw-string, you can't
5 make it as thin. This is a .9 mil. bag.
6 This is a bag made by Presto, which I think is
7 part of the group that Gene mentioned. This product is
8 a .85 mil. bag. So, Presto is obviously meeting the law.
9 This is a product made by Carlyle. It's a .7
10 mil., and contains 30 percent postconsumer content.
11 This is a product made by North American. It's
12 called Recycle One. It's certified. It's 70 percent
13 recycled plastic. It's a .8 mil.
14 This is a new product, a high density product,
15 made by First Brands. It's a .65 mil. Again, that would
16 meet the 1995 law.
17 This is a product called Fiesta, which is made by
18 United Plastic Films, again, part of the group that Gene
19 mentioned with First Brands. This also meets the law at .85
20 mil.
21 There are all sorts of products. These
22 particular products I bought right here in California.
23 These also all meet the law. I won't go through all of
24 them. I think that you can kind of see the point.
25 There are all sorts of high density, low density,

1 scented, closure bags, recycled content, source reduced.
2 So, basically, theses products include a variety of high
3 density and low density material, various sizes,
4 application, scents, draw strings, and these bags all meet
5 the law.
6 In addition, there is plenty of manufacturers,
7 including Webster Industries, that could easily fill
8 California's trash bag needs with current existing
9 capacity, producing product that meets or exceeds the
10 legislative requirement.
11 I know that we would be happy to sell our excess
12 resin to manufacturers such as First Brands. It's not that
13 the trash bag law and strict regulations aren't doable
14 because our competitors as well as us know that it is. The
15 companies fighting strict regulations and interpretations
16 of the law simply don't want to be legislated.
17 They know that California sets the standard, and
18 that New York, Wisconsin, New Jersey and other states could
19 follow with perhaps even tougher requirements. If the
20 Board backs down now, it would be grossly unfair to those
21 manufacturers who made investments and introduced new
22 products to meet the law.
23 The first law -- this law was announced in 1990,
24 that's almost four years ago. Companies had ample time to
25 comply.

1 Reversing the true intent of the law will
2 penalize those companies who made investments and reward
3 those companies who took a do-nothing approach.
4 I urge you not to let a laissez faire attitude
5 prevent you from doing the right thing. Our solid waste
6 problems are growing and real, and we need business to be
7 part of the solution.
8 Like I mentioned, we submitted written testimony,
9 but I thought I would focus on two additional areas real
10 quickly. The first one is food contact. The second one
11 are some of the quality standards.
12 Contamination from recycled resin isn't a problem
13 with kitchen trash bags because they're not a food contact
14 item. In fact, our competitors, as do virtually all trash
15 bag manufacturers, place a disclaimer to that effect right
16 on their packaging.
17 For example, Glad kitchen garbage bags state "not
18 for food storage" right on the box. Hefty kitchen bags
19 state "not recommended for food storage" on the box.
20 It's ludicrous to argue that kitchen bags are a
21 food contact item when, in fact, a disclaimer stating
22 otherwise is printed right on the box.
23 Additionally, many manufacturers today use
24 off-grade resins and industrial waste as standard practice,
25 neither of which is FDA approved, and manufacturers use

1 their own self-generated waste, which would be considered
2 unusable for food contact applications.
3 In addition, FDA supports the view that using
4 recycled content in kitchen bags and all other types of
5 trash bags is not a problem. The FDA has stated that since
6 trash bags are not intended to hold food, their components
7 would not be considered food additives and would not
8 subject to regulation by FDA.
9 Also, the FDA has previously stated that grocery
10 bags are an acceptable use of recycled plastics. Certainly
11 grocery sacks have more direct contact with food intended
12 to be consumed than trash bags.
13 Secondly, I would like to comment on the quality
14 standards. An exemption for quality standards provides a
15 loophole for manufactures to take a do-nothing approach and
16 avoid the law using quality arguments.
17 The quality standards listed in the draft
18 regulations forward the use of virgin resin by making the
19 standards prohibitively strict for recycled resin. The ASTM
20 test for virgin resins simply do not apply to the
21 postconsumer resin market.
22 Renew's market place success serves as first-hand
23 evidence that virgin equivalent resin quality is not a
24 prerequisite for trash bag manufacturers. As I mentioned,
25 in major markets, Renew out sells some of the leading brand

1 competitors.

2 Consumers wouldn't be buying and rebuying Renew

3 if it didn't meet their quality expectations.

4 There is an ample supply of quality postconsumer

5 resin on the market that exceeds the specifications for

6 manufacturing quality trash bags. The virgin resin industry

7 is seeking to over-spec trash bags in efforts to provide a

8 loophole for noncompliance with the law.

9 Unrealistic resin specifications will in effect

10 negate the true intent of the law by providing ammunition

11 for manufactures to continue the use of virgin resin.

12 I did briefly look over the standards handed out

13 earlier today, and I do see some progress made in some of

14 the standards, such as changing the odor specification

15 comparison from no more odor than 100 percent virgin, to be

16 instead no more odor than 100 percent non postconsumer.

17 This still doesn't reflect reality. As Jerry

18 mentioned, there is an ASTM standard, and I would be happy

19 to leave this behind, that says when required, rate the

20 film and sheeting odor as satisfactory or unsatisfactory

21 when compared to an odor standard. The odor standard and

22 method of test shall be agreed upon by the purchaser and

23 the seller.

24 In other words, what it's saying is it should

25 just be a matter of satisfactory, unsatisfactory, and let

1 the decision rest between the purchaser and the seller. If
2 the resin has too much of an offensive odor, then that
3 resin won't be up to par and the person won't be able to
4 sell it. They will have incentive to make better resin.
5 I would like to comment on something else
6 regarding the heavy metals that was brought up. CONIG, I
7 don't if you're familiar with the CONIG guidelines, but
8 these are guidelines on packaging in the Northeast, and
9 what they say is that you cannot have heavy toxic inks or
10 heavy metals, but they do allow for recycled content.
11 In other words, if you make a recycled content
12 package, you are allowed to have trace elements of these
13 toxic inks. What that says is that they realize that there
14 isn't any federal legislation prohibiting the use of toxic
15 inks and pigments, and that when you're a recycler you
16 can't guarantee that every little piece of printed material
17 doesn't include some toxic ink.
18 That is not to say that the use of some trace
19 elements of toxic inks should overshadaw the larger goal of
20 using recycled material.
21 One other thing regarding the availability of
22 resins is that I think it was good to acknowledge that what
23 this law can do is encourage small start-up companies, such
24 as Envirothene, to be producing resin, but there are also
25 major manufacturers selling and marketing postconsumer

1 resin that's a high quality resin.

2 Like Dow Chemical, for example, does market a

3 postconsumer recycled content resin.

4 In addition, those companies that don't want to

5 use recycled material can source reduce, as we've seen.

6 Regarding the annual aggregate interpretation, as

7 Chairman Chesbro (sic) pointed out, we do think that each

8 and every bag should need to meet the standard and that

9 industry averaging is perhaps not fair across the board and

10 does not provide a level playing field.

11 One other quick comment was that on the recycled

12 content labeling law, the labeling law, as you know, states

13 that if you make a claim, you have to have 10 percent

14 postconsumer in your product, but if you don't make a

15 recycled content claim, you would not have to put in any

16 recycled material.

17 There is a lot of room there for consumers to, in

18 fact, get confused at the market place at the retail level,

19 especially when you have some smaller retail outlets that

20 might only have two or three brands.

21 Thanks for all your time. I'll be happy to

22 answer questions.

23 COMMITTEE MEMBER CHESBRO: Do you have any

24 specific language or proposals with regard to the quality

25 standards?

1 MS. DRUCKER: I'd be happy to submit them to the
2 Committee.
3 We haven't written any yet.
4 COMMITTEE MEMBER HUFF: This is not a question of
5 the witness, particularly, but it's triggered by
6 Mr. Chesbro's question, and that is, I at least find it
7 very helpful, and it doesn't have to be today, but
8 somewhere along the line, to have specifics.
9 It's a lot easier to understand the whole
10 ramification of what is being talked about if you can
11 actually see where someone wants to change the word "shall"
12 to "may" or whatever, to have some specifics.
13 As we go through this regulation process, I am
14 aware that as we go through one comment period after
15 another, commenters are commenting on new matters rather
16 than commenting on matters previously settled.
17 That is the way that it should be in the
18 regulatory process.
19 COMMITTEE MEMBER CHESBRO: Before you get too far
20 down that line, let me say that we do have a letter from
21 Ms. Drucker, dated September 9.
22 Whether it proposed specific language, I can't
23 say for sure. The point has been made before.
24 MS. DRUCKER: We've had one since then.
25 There's an additional one more specific that we

1 wrote to Jerry's attention.

2 COMMITTEE MEMBER HUFF: Good, good.

3 I was going to say that as a Board Member,

4 notwithstanding the process that you followed with staff,

5 if a concern remains a priority concern after the comment

6 period has passed and it's now in front of us as

7 regulations and still imbedded in the whole of the

8 regulations, I still want to know about it.

9 This came up when we did regulations at our last

10 Board meeting where people presented testimony to the full

11 Board on matters that had been passed over in the

12 regulation process very early in the process and still

13 remained issues.

14 So, I invite everyone who is here today with

15 concerns that as Board Members when we come to decide on

16 the regulation package as a whole we still want to know if

17 there are issues imbedded in the regulations, even if those

18 issues have been considered and rejected, within the

19 regulatory process.

20 COMMITTEE CHAIRMAN RELIS: I have a couple of

21 questions.

22 You put forth the argument that there is no

23 technological barrier to achieve the proposed mandate here,

24 that you can do that now with known technology.

25 Would you elaborate on that?

1 MS. DRUCKER: Well, as you see from the array of
2 products here, we're not the only one's who are able to do
3 this. I wish we were in a lot of ways.
4 As time goes on, we find more and more
5 competitors increasing their amount of postconsumer and
6 recycled content. Some of it is technologically based.
7 We just made an $8-million investment in state of
8 the art recycling equipment from Italy. Some of it is
9 really, we feel, a commitment to the cause.
10 Source reduction obviously takes a lot less
11 technological know-how than using recycled material.
12 COMMITTEE CHAIRMAN RELIS: In terms of the
13 supply, you said that you think that the supply is there.
14 We have heard that maybe it isn't there.
15 I would like to hear your thoughts on that. How
16 do you get your supply now without divulging sources?
17 MS. DRUCKER: I think that argument goes round
18 and round.
19 One time you hear there is not enough supply, and
20 the next time you hear there is supply but it costs too
21 much. Which is it? It's always one reason or another that
22 they can't use recycled resin.
23 What we do is we have a purchasing department
24 specifically committed to finding sources. We directly
25 source our material, to a variety places of places, both

1 retailers, dry cleaners. We have a new program where we
2 are talking to several communities to recycle back the
3 recycling bags.
4 COMMITTEE CHAIRMAN RELIS: That's one of your
5 sources, the return of the laundry plastic bags, the dry
6 cleaners and so forth.
7 MS. DRUCKER: Yes.
8 We also do buy a certain proportion of material
9 in the resin market.
10 COMMITTEE CHAIRMAN RELIS: From your perspective
11 at this point, supply is not a problem for you?
12 MS. DRUCKER: That's correct.
13 We recycle 100 million pounds of polyethylene a
14 year, 80 to 100 I should say.
15 COMMITTEE MEMBER CHESBRO: I would like to ask
16 staff on the question of the quality standards potentially
17 being used as a way to avoid compliance when, in fact, they
18 should not be an obstacle to producing a quality bag.
19 Can you respond to what the discussions have been
20 and what staff's recommendation is based on.
21 MR. HART: Staff's interpretation of the quality
22 standards has always been as an insurance policy of sorts
23 to bag manufacturers against postconsumer material
24 suppliers being able to produce or make available an
25 inferior product and the manufacturers being in a bind and

1 forced, in sorts, to use that material.

2 It all hinges on how strict or the place that the

3 quality standards are set. If they are too loose, they

4 don't serve any purpose. They don't tend to increase the

5 quality of postconsumer material.

6 If they are too strict, then, of course, they can

7 be used as outs. There may not be a need for the quality

8 standards to be so strict. So, therefore, they don't play

9 the role we want them to.

10 It all depends on not only the individual

11 specifications but characteristics, but more specifically

12 the numerical values, where those end up being.

13 As far as the origin of the standards we have

14 proposed, we had two workshops before the first draft of

15 the regulations, and an additional workshop during the

16 original comment period. We sent out a letter specifically

17 requesting specifications for quality standards to the

18 hundred or so people on our contact list.

19 What you see before you, or what was in the

20 original draft regulations is a result of feedback from

21 those inquiries. We have really been solely dependent on

22 what has been in the literature, what feedback we received

23 back from industry and the very minimal amount of ASTM

24 standards that do exist for postconsumer material.

25 Most of them, the ASTM standards are on film.

1 COMMITTEE MEMBER CHESBRO: Let me ask you, are
2 you saying that it's not possible, on the other hand, that
3 a manufacturer might not wind up hostage to materials that
4 aren't usable if we didn't have some standards, that they
5 might not wind up having to accept materials and produce
6 some product that is inferior, even though the market
7 place, you would think, would take care of it, but is it
8 not possible that there could be a situation that they
9 could not get what they needed to put out a good product?
10 MS. DRUCKER: I'll give you an example that
11 Proctor and Gamble used at a conference that I was at.
12 What Proctor and Gamble said was basically that
13 when they looked to find bottles that were made of 100
14 percent postconsumer material, their supplier said we can't
15 do it.
16 They basically said, we're not going to buy
17 bottles that aren't 100 percent postconsumer material. They
18 suddenly found suppliers that had 100 percent recycled
19 postconsumer bottles.
20 A company the size of Proctor and Gamble, you can
21 imagine, those arguments could hold for them, there's not
22 enough supply. I think it's an incentive to create the
23 markets.
24 If a company wants to get into the recycling
25 business and sell that resin, they have to set the

1 standards. It's a matter of supply and demand.

2 Certainly companies like some of the companies

3 represented here today are large enough to make those

4 requirements on their suppliers.

5 I'm going to leave the product.

6 COMMITTEE CHAIRMAN RELIS: Okay. Francine

7 Proctor, with the California Grocers Association.

8 MS. PROCTOR: I'm Francine Proctor. I represent

9 the California Grocers Association, and the California

10 Association of Neighborhood Stores.

11 CGA/CANS represents approximately 8,000 grocery

12 retailers, wholesalers and food industry suppliers. We

13 believe that based on the intent of Senator Hart's bill,

14 including wholesalers in these regulations does nothing to

15 promote the goal of increasing postconsumer material usage

16 in trash bags.

17 It does, however, impose a substantial reporting

18 burden on our wholesale members. These members have no

19 knowledge of or control over the amount of postconsumer

20 material that is used to manufacture trash bags.

21 It is our opinion that the IWMB will receive the

22 information it needs regarding material used to manufacture

23 in total amounts of recycled postconsumer material from the

24 manufacturers who have that information.

25 In order to give you this information,

1 wholesalers would first have to obtain it from the
2 manufacturer. In the meantime, the manufacturer is
3 providing that information to the IWMB. The whole
4 procedure is redundant and accomplishes nothing.
5 Accordingly, we are asking that you exempt
6 wholesalers from the reporting requirements. As
7 Mr. Schrage pointed out, it will create an inequity in our
8 industry between the retailers who buy directly and
9 wholesalers whose costs will increase substantially because
10 of the reporting requirements.
11 If the Board decides that it does not want to
12 totally exempt wholesalers from this process, we would ask
13 that you simplify the reporting requirements to require
14 only reporting of the company name, mailing address,
15 physical address, telephone number, contact person and the
16 names of the manufacturers who have supplied them with the
17 bags.
18 Thank you.
19 COMMITTEE CHAIRMAN RELIS: Any questions?
20 COMMITTEE MEMBER HUFF: Not of the witness.
21 COMMITTEE CHAIRMAN RELIS: Caroline Rennie.
22 MS. RENNIE: Good afternoon.
23 Do I have to say who I am? Caroline Rennie, with
24 Envirothene, a plastics recycling firm based in Chino,
25 California.

1 We were interested particularly in expanding
2 rather than contracting the definition of a trash bag in
3 labeling, and in the annual aggregate average as well as
4 the specifications.
5 In terms of labeling, we felt that there were
6 firms that worried that if a bag was labeled, it needed to
7 have a different form of labeling in order to be sold in
8 California, that this would increase the cost of the bag
9 without increasing the value of the bag.
10 We felt that this could be pretty readily taken
11 care of the way that bottles are that are sold all over the
12 country and still have the redemption value that is
13 appropriate to every single state on the label.
14 The same thing could apply. It would just state
15 on the label, all bags that are sold in California will
16 contain at a minimum the percentage of postconsumer content
17 that they should contain.
18 In terms of the definition of a trash bag, we
19 fail to see how limiting the definition of a trash bag will
20 enable industry to maximize postconsumer content, an
21 assertion that we have read, while they claim to be
22 exploring the likelihood of success.
23 Companies like Webster are actually proving that
24 one can be successful in using great amounts of
25 postconsumer content in all the bags that apply to the

1 various gauge restrictions that the law requires.

2 This is a good deal more useful to the public in

3 terms of removing material from the waste stream and

4 getting it actually used in the trash bags. We would like

5 to see as broad a definition included.

6 We disagree with Mobil that the current

7 specifications would allow for variable performance. As

8 strict as they are, we found that the specifications that

9 are currently being required are about as strict as you get

10 for virgin materials, and as a consequence you can

11 guarantee that your performance was going to be more than

12 adequate, and, therefore, use as much postconsumer material

13 as you want without in anyway altering the performance

14 characteristics of your bag.

15 We object right now to the annual aggregate

16 certification because we feel that it encourages the search

17 for loopholes rather than encouraging the use of

18 postconsumer material. There's no technical reason why

19 every bag that falls within the legally defined thicknesses

20 cannot meet the recycled content requirements.

21 Since all manufacturers will be equally burdened,

22 there is no economic reason why each bag shouldn't contain

23 recycled content.

24 I would like to note in this regard that Webster

25 is selling their bags at a discount to most of the virgin

1 material bags that are on the market.

2 It is unclear what other reasons could apply for

3 annual aggregate, for requiring and needing annual

4 aggregate certification, say that the industry wishes to

5 cap the amount of recycled material it uses rather than

6 expand it, and again we are always seeking to find markets.

7 Because this bill, we view this bill as a market

8 development bill, one that actually stimulates the amount

9 of material that's withdrawn from the postconsumer waste

10 stream which can then be used for the manufacture of other

11 products rather than being exported.

12 We have been able to create 120 jobs in Southern

13 California solely by taking the materials that are

14 currently available and moving them. We would like to be

15 doubling our capacity. We're seeking to do that. Really,

16 the limiting factor is the amount of material that is used

17 by consumer product companies.

18 It's been enormously useful to us to have

19 companies like Proctor and Gamble require that the Downy

20 bottle be 100 percent postconsumer content. It makes a big

21 difference to our business. It makes a big difference to

22 people who wish to invest in our kind of business.

23 Therefore, it makes it much easier for us to turn

24 around and get the investment that we need to double our

25 capacity. So, we are encouraging people to stimulate the

1 markets, because it will enable us to take more material
2 out of the waste stream and get it back into the products.
3 Current specifications have been written so
4 tightly that postconsumer plastic recycling companies can
5 only meet them through increasingly expensive sorting
6 procedures. The tighter the bag companies, the
7 unnecessarily tighter the bag companies wish their
8 specifications to be, the more expensive it is going to be
9 for them to get the material that they request.
10 We can sort to just about any specification
11 whatsoever. The only problem is going to be how much it
12 costs us to do so. Obviously, that's a cost that we're
13 going to have to pass on.
14 We suggest that since the material that is
15 currently produced by firms like ours can be used in levels
16 of from 30 to 50 percent in plastic bags as thin as a half
17 a mil. thick, and we're currently doing that in grocery
18 sacks here in California, that the specifications remain
19 fairly broad in order to keep costs under control.
20 Certainly it's already a competitive situation.
21 We are not the only firm that is providing postconsumer
22 content. Webster's meeting their own needs. Quantum and
23 Dow and Union Carbide and a whole series of other companies
24 are also providing postconsumer content.
25 The market will determine which material can flow

1 to the trash bags or to various other products. There is
2 no shortage of material. What we're trying to encourage is
3 the competition among firms to raise the level, the value
4 of the material as high as possible rather than getting
5 recyclables always down graded into lower grade materials.
6 So, we strongly support the broadest
7 specifications and broadest definition of a trash bag, and
8 we do not support the idea of an annual aggregate average.
9 Thank you.
10 COMMITTEE CHAIRMAN RELIS: Thank you. Any
11 questions?
12 Eric Whalen, CAW.
13 MR. WHALEN: Thanks for letting me have the
14 opportunity to talk today.
15 I would like to start out by saying most of my
16 serious concerns about the last version of the regs were
17 taken care of by subsequent amendment. We're very pleased
18 with that.
19 I would like to comment on the odor requirements
20 in the regulation process. We continue to feel that it's
21 inappropriate to have that sort of subjective test criteria
22 promulgated by State regulation. We feel that it would be
23 much more effective if the buyer and seller of the material
24 work that out amongst themselves.
25 What we're trying to do here is get a process, a

1 regulation process going that is the least onerous as
2 possible. The more you cut out and let the market place
3 take are of, the more efficient the market is. I would
4 encourage that you take out that whole odor criteria in the
5 regulation process.
6 I would also just briefly like to make the point
7 that some others from Envirothene and some of the other
8 recycled bag manufacturers have made that the availability
9 issue is really a non-issue. As you all know on the Board,
10 local governments are swimming in recyclable plastic that
11 they are trying to get rid of.
12 There is a supply out there. The arguments that
13 they are not going to be able to make trash bags from
14 postconsumer recycled material is clearly not proven by
15 what we're seeing in local governments.
16 In the interest of time, I will cut the rest of
17 my comments short. Any questions?
18 COMMITTEE CHAIRMAN RELIS: Any questions?
19 Thank you very much.
20 Dan Colegrove, with the Grocery Manufacturers of
21 America.
22 MR. COLEGROVE: Thank you.
23 Briefly, I represent the Grocery Manufacturers of
24 America, which is a national trade association of the
25 manufacturers of consumer products sold in the United

1 States. Our members include people who make trash bags,
2 among other products.
3 I would like to briefly buttress some of the
4 comments that were made earlier by Mr. Schrage,
5 particularly emphasize that we agree with the concerns of
6 the bag manufacturers regarding quality specifications,
7 that the quality of the bags contain high levels of
8 recycled materials.
9 That is a concern to all of us as well as the
10 certification burdens placed upon our customers, the
11 wholesalers, and the ultimate burden that places upon us.
12 I wanted to rush up here as well and address a
13 couple of comments that were made prior to me. We have
14 heard throughout the debate on this issue references back
15 to labeling, and I realize that it's not an issue in the
16 case now, but it seems to keep popping up.
17 COMMITTEE MEMBER CHESBRO: Sorry I brought it
18 up.
19 I didn't bring it up because I was planning to
20 propose any requirement.
21 MR. COLEGROVE: It's just one of those flash
22 points that makes us all start scribbling notes.
23 COMMITTEE MEMBER CHESBRO: If I had a time
24 machine that I could rerun, I would not mention labeling.
25 MR. COLEGROVE: The only thing I wanted to say is

1 that Caroline actually raised an interesting point about
2 perhaps addressing that the same way as the beverage
3 industry by putting specific to each state on the product.
4 I just wanted to point out, of course, the
5 obvious differences between the beverage industry and the
6 labeling -- the bag industry is that bottlers typically, in
7 California, a company such a Pepsi, there are probably
8 thirty Pepsi plants throughout the State of California all
9 local to where the product is sold.
10 As Mr. Schrage said, companies that are our
11 members, they have two bag plants in the State of
12 California, both in Southern California. I wanted to make
13 sure that that point was addressed. I realize that it's not
14 that big of a deal right now.
15 Another point that I also wanted to touch on real
16 quickly was the very great strides that companies such as
17 Proctor and Gamble have been making in using recycled
18 materials from their materials, and a lot of companies are
19 doing that.
20 That's an issue that we're going to talk about as
21 we get into SB 235. I would point out, again, however, the
22 differences between a Downy detergent bottle, which is not
23 intended for anything other than the use of soap and
24 detergent, and the differences between a container intended
25 for food or drugs or anything of that nature, cosmetics,

1 and we believe, and Mr. Schrage has testified that a lot of
2 people rightly or wrongly use trash bags to store food in.
3 COMMITTEE MEMBER CHESBRO: We're certain that
4 people don't use detergent bottles to put anything else in.
5 MR. COLEGROVE: I guess they do at their own
6 risk.
7 That's another point that we feel needs to be
8 addressed whenever possible, as safety concerns, about
9 using large amounts of recycled material. That is all that
10 I intended to say.
11 Thank you for your time.
12 COMMITTEE CHAIRMAN RELIS: Thank you.
13 That completes the list that I have of slips. If
14 there is no one else out there --
15 Wayne Moras.
16 MR. MORAS: Good afternoon, Members of the Board.
17 My name is Wayne Moras. I'm the Technical Unit Manager at
18 Mobil Chemical's Woodland facility, nearby Sacramento.
19 COMMITTEE CHAIRMAN RELIS: I have been out to
20 your plant a year ago.
21 MR. MORAS: Several members of the staff have
22 been out to the plant.
23 I just wanted to say that we fully intend to
24 comply with the legislation. We have been actively testing
25 various postconsumer materials at the Woodland plant for

1 about two years now.

2 Those materials tend to be grocery sack from our

3 internal grocery sack collection programs, and also we

4 collect stretch material from its final end use. Plus, we

5 have also identified some manufacturers of postconsumer

6 material both within California and outside of California.

7 We also, as a company, we have made investment,

8 in the order of $7 million, on a washing and reclaiming

9 facility at our Jacksonville, Illinois plant.

10 In August we converted the Woodland facility to

11 running postconsumer material and have been ramping up

12 since that time. As of November, we have been at 10 percent

13 or greater.

14 One of the objectives was to get to 10 percent by

15 November so that we could ensure that our product that

16 rolls over in the warehouse has postconsumer material in

17 it.

18 The one comment that I would like to make is that

19 staff has done a tremendous job in working with industry to

20 ensure that the rules both met the intent of the original

21 legislation, Senate Bill 2092, and the rules were also

22 formed such a way that we could comply with the

23 legislation.

24 I do advocate maintaining the annual aggregate

25 method. One thing that we all are trying to avoid in our

1 business particularly in the current light of down sizing
2 and trying to become more efficient is administrative
3 burden. By trying to certify that each and every trash bag
4 has exactly 10 percent in it is very difficult.
5 The audit trail to get back to each trash bag
6 would require an incredible amount of administrative
7 burden. Plus, just the variability in and of itself of
8 postconsumer material can almost get you into a situation
9 where it's difficult to maybe achieve that day in and day
10 out.
11 For instance, if I'm a manufacturer and doing
12 everything I can to comply, I could run into the situation
13 where I've all of a sudden run into a bad lot of
14 postconsumer material. At that point I have two choices:
15 Shutdown my operation; or send the material back and get
16 some in quickly. For a short period of time, I could have
17 difficulty maintaining that 10 percent input.
18 The intent of Senate Bill 2092 was to develop
19 markets for postconsumer material. I don't see how
20 requiring 10 percent PCM in each and every trash bag is
21 going to improve that.
22 We are currently at or exceeding the 10 percent
23 level. We are maintaining compliance in an aggregate method
24 and doing what we can to do move that number up. However,
25 we don't see the benefits of providing additional

1 administrative burden and tracking them down to the one bag
2 level.
3 Other than that, some of the changes made in the
4 draft rules have gone a long way to making the rules
5 livable to the manufacturers.
6 COMMITTEE CHAIRMAN RELIS: Okay. Thank you.
7 COMMITTEE MEMBER CHESBRO: I need to ask a
8 question of staff.
9 The wholesalers issue, maybe you explained it,
10 what is the justification or necessity for that?
11 MR. HART: The statute is really at the bottom of
12 the wholesalers. It defines sellers as any person who sells
13 to retailer. Distributor includes wholesalers.
14 They would be selling to those people, and,
15 therefore, are defined by statute to be included in the
16 certification.
17 COMMITTEE MEMBER CHESBRO: That is an issue that
18 Senator Hart is looking at?
19 MR. HART: Not to my knowledge.
20 We didn't propose it.
21 COMMITTEE MEMBER CHESBRO: It's a statutory
22 requirement at this point, as is the issue of the quality
23 standard, but we have the flexibility of determining where
24 the standards lie?
25 MR. HART: That's correct.

1 The Board is required to establish the quality
2 standards.
3 COMMITTEE MEMBER HUFF: I understood from the
4 first gentleman from Mobil, his suggestion was what he
5 thought met the law and still diminished the involvement of
6 people other than manufacturers in the certification.
7 I'm concerned that we are going to create a
8 regulatory nightmare and paper blizzard with the
9 certification of wholesalers.
10 COMMITTEE CHAIRMAN RELIS: As to who certifies?
11 COMMITTEE MEMBER HUFF: I'm concerned about that,
12 being in this day that everyone talks about regulatory
13 reform, if we proceed down that path we're going to find
14 ourselves a target.
15 MR. HART: The other certification, the seller
16 certification goes beyond the wholesalers to the
17 distributors, commercial and industrial users.
18 Wholesalers are part of that group, certainly,
19 and that's why staff recognized the difficulty of the other
20 sellers, the non-manufacturing seller to certify
21 postconsumer content as they are required to do by
22 statute.
23 We tried to make it as simple as possible and
24 requested only that the manufacturers send the information
25 along to the people, with each shipment. We backed up on

1 that so that the other sellers and manufacturers can work
2 that arrangement out as they see fit or as needed.
3 The difficulty in going beyond that is one that
4 they are included by statute. We cannot in regulation
5 exclude them. If it becomes something that we propose
6 legislatively, the question that staff would have, and it
7 would undertake research to get a firm grip as possible, if
8 we did something along the lines as Gene suggested and
9 change the sellers of trash bags to manufacturers of trash
10 bags, that would be nice.
11 That would significantly reduce the number of
12 people involved and reduce the length of the regulations
13 and the complexity of the regulations. However, the key
14 question is by how much does that reduce the number of
15 bags, the quantity of bags that we are actually getting.
16 How many of the bags sold in California are sold
17 directly by manufacturers still in the loop. We would let
18 out all bag transactions not directly from manufacturers
19 through the distributor, broker, wholesaler --
20 COMMITTEE MEMBER HUFF: The bag was manufactured
21 somewhere.
22 MR. HART: If we change the language, the
23 manufacturer must certify, but distributors not in the
24 state would not be required to be certified.
25 COMMITTEE CHAIRMAN RELIS: It would be

1 interesting to know more about that, what the magnitude is.
2 MR. KRAMER: We thought when Gene was proposing,
3 we are sellers. They are certifying I bought from
4 manufacturers who are certifying compliance with the law
5 that that would have them certifying.
6 We thought that would be some way to get by with
7 it and have the bags sold in California be certified. The
8 people doing the buying, I'm buying the bags for sale in
9 California, I buy from manufacturers that comply.
10 COMMITTEE MEMBER HUFF: That would be a
11 definition of the certification.
12 MR. KRAMER: But the statute, depending on how
13 you interpret the wording --
14 COMMITTEE CHAIRMAN RELIS: That's an issue that
15 has been taken up with the author?
16 MR. KRAMER: Not this specifically.
17 What we have discussed with the author or through
18 the legislative law office is the possibility of revising
19 the statute from seller of bags to manufacturer of bags,
20 not the legal non-manufacturer seller would certify who
21 they bought the bags from and whether that would be
22 considered compliance with their requirement.
23 COMMITTEE MEMBER CHESBRO: I heard the testimony
24 that the manufacturers are doing fine meeting the
25 requirements, and think it should be tougher. I don't know

1 that we can fine tune in both directions. Probably that
2 means staff has come as close as possible to the middle
3 here.
4 There are a few things I would prefer to do on
5 the side of making it stronger for the purpose of creating
6 demand, but I'm not sure if we have the votes or in this
7 economic climate we can push that hard.
8 I'm willing to swallow some of the concerns and
9 say let's adopt what we have, and to the extent there is
10 cleanup and specific fine tuning that needs to be done,
11 statutorily. We will work on making it happen.
12 I have concerns about the odor and whether the
13 quality standards are too big a loophole. There are valid
14 issues raised.
15 COMMITTEE MEMBER HUFF: I see the point,
16 Mr. Chesbro. My concern, I focused on the certification
17 process.
18 I think that no one is suggesting a process to
19 act to the detriment of the intent of the bill. What I'm
20 thinking is that there are suggestions here that act to
21 reduce the amount of paper, the amount of people needing to
22 make certifications and that there not be necessarily any
23 degradation of the objectives of the bill.
24 On the other hand, if we leave it the way that it
25 is, I'm concerned that it's going to be a primary example

1 of the issue of over regulation, and I cannot support that.
2 COMMITTEE MEMBER CHESBRO: I recall numerous
3 times urging people to go to the legislature. When
4 legislative intent directs our hands, we ought to
5 participate in the discussions in making sure that the
6 legislation is fine tuned and reasonable, and that solves
7 the problem.
8 We have been told by staff, and maybe counsel can
9 comment whether it's interpretation of the statute, we are
10 told that it's required in the statute.
11 COMMITTEE MEMBER HUFF: I'm aware that we
12 stretched the envelope with the tire regulations and
13 stretched it further at the Board meeting in Palm Springs.
14 COMMITTEE MEMBER CHESBRO: You think we could
15 approve manufacturers from sellers?
16 COMMITTEE CHAIRMAN RELIS: I think we should
17 explore. We're in the comment period.
18 COMMITTEE MEMBER HUFF: In between comment
19 periods.
20 COMMITTEE CHAIRMAN RELIS: It's consideration
21 today.
22 MR. HART: Staff is actually asking to publish
23 again for another comment period.
24 COMMITTEE MEMBER CHESBRO: With the intent of
25 bringing to closure at some point soon.

1 If we give direction for changes, it's an
2 appropriate time for it. The purpose of my comments is to
3 suggest, I think, although not perfectly satisfactory to me
4 or anyone in the audience, to the point where close to the
5 middle has been found in the statutory requirements that we
6 have been handed, and we ought to go ahead with the
7 fifteen-day comment period on the assumption that we're
8 going to put regulations in force and have discussions with
9 the author about fine tuning and clean up.
10 COMMITTEE CHAIRMAN RELIS: What I hear Mr. Huff
11 trying to get at is not the issue of the demand side but
12 the paperwork trail.
13 COMMITTEE MEMBER HUFF: We're going to kill an
14 awful lot of trees in this.
15 MR. HART: Just for clarification, the number of
16 manufacturers involved in the program probably lies around
17 two or three dozen.
18 The number of other sellers probably is maybe a
19 hundred. So, we're not really talking about eliminating an
20 enormous number of these non-manufacturing sellers. It's
21 significant, but nonetheless it bears no resemblance to the
22 newsprint program.
23 COMMITTEE CHAIRMAN RELIS: What is the critical
24 time frame?
25 MR. HART: The statute went into effect the first

1 of this year. The first certification is due March 1994
2 for the reporting period.
3 The definition of the trash bag, the annual
4 aggregate, the type of certification program needs to be
5 decided upon so that people can make the necessary
6 adjustments and paper work to put together the
7 certification come March of 1994.
8 COMMITTEE CHAIRMAN RELIS: I would be in favor of
9 going ahead. I want to explore Jesse's point.
10 Can we explore the legal issue with the author
11 and try to find a way?
12 COMMITTEE MEMBER CHESBRO: I'm open to that. I
13 do not want to delay the process, because we have
14 complaints about the regulations being in place to have the
15 people know what they are.
16 COMMITTEE CHAIRMAN RELIS: We do not need more
17 than that for the comment period.
18 COMMITTEE MEMBER HUFF: Is the Chair going to
19 instruct the staff to explore the legal requirements with
20 regard to the reporting and certification?
21 That keeps me happy for today.
22 COMMITTEE CHAIRMAN RELIS: It's a day-by-day
23 affair.
24 That's all you can hope for.
25 COMMITTEE MEMBER HUFF: Every day is just a

1 holiday.

2 COMMITTEE MEMBER CHESBRO: On the quality

3 standards issue, when we act we should include to monitor

4 the situation to see what problems arise from the standards

5 and to the extent that there does turn out to be a loophole

6 when companies are having problems getting the material and

7 others use it as an excuse.

8 I have concerns and do wish there was a way to

9 address them, but I'm not sure.

10 MR. SMITH: Mr. Chairman and Mr. Chesbro, we have

11 the capability to review the standards every two years.

12 The mechanism is there.

13 COMMITTEE CHAIRMAN RELIS: Okay. I would like to

14 thank you. I found this very informative.

15 All the presentations were to the point and some

16 information I have not heard before. So, I think you all

17 are to be commended for making your case.

18 We will see you again. We need to move the

19 fifteen-day comment period.

20 COMMITTEE MEMBER CHESBRO: So moved.

21 COMMITTEE MEMBER HUFF: With the instruction to

22 staff, I second.

23 COMMITTEE CHAIRMAN RELIS: Roll call.

24 MS. MORRISON: In sending the regulations out for

25 Notice, I suggest if you want to discuss further definition

1 or refining of definition or expansion of definitions that
2 be noted in the Notice to get comments on that.
3 COMMITTEE CHAIRMAN RELIS: Okay. That's
4 acceptable.
5 Call the roll.
6 MS. WADDELL: Board Members Chesbro.
7 COMMITTEE MEMBER CHESBRO: Aye.
8 MS. WADDELL: Huff.
9 COMMITTEE MEMBER HUFF: Aye.
10 MS. WADDELL: Chairman Relis.
11 COMMITTEE CHAIRMAN RELIS: Aye.
12 We don't have any more business. We are out of
13 here.
14 (Thereupon the Market Development Committee
15 meeting was adjourned at 2:50 p.m.)
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1 CERTIFICATE OF SHORTHAND REPORTER

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3 I, VICKI L. MEDEIROS, a Certified Shorthand
4 Reporter of the State of California, do hereby certify:
5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me, Vicki L.
7 Medeiros, a Certified Shorthand Reporter of the State of
8 California, and thereafter transcribed into typewriting.
9 I further certify that I am not of counsel or
10 attorney for any of the parties to said hearing nor in any
11 way interested in the outcome of said hearing.
12 IN WITNESS WHEREOF, I have hereunto set my hand
13 this nineteenth day of April, 1993.
14
15
16
17 Vicki L. Medeiros
18 VICKI L. MEDEIROS
Certified Shorthand Reporter
19 License No. 7871
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