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GOVERNMENT OF SAMOA

Office of the Attorney General

5 May 2006

The Honourable Minister for Natural Resources, Environment & Meteorology

PLASTIC BAG PROHIBITION ON IMPORTATION REGULATIONS 2006

1. I have considered the attached draft Plastic Bag Prohibition on Importation Regulations 2006 which have been prepared by my office.
2. I am satisfied that the draft Regulations:
 - (a) are appropriate as to form and content; and
 - (b) make proper provision for the matters intended to be covered by them.
3. Accordingly I recommend that the Regulations now proceed to Cabinet for their consideration.

(Brenda P Heather-Latu)

ATTORNEY GENERAL

Attch:

Pursuant to section 146 of the Lands Surveys and Environment Act 1989, I, MALIETOA TANUMAFILI II, Head of State of the Independent State of Samoa, acting on the advice of Cabinet, MAKE the following Regulations:

DATED at Apia this day of 2006.

(Malietoa Tanumafili II)

HEAD OF STATE

REGULATIONS

Arrangement of provisions

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1. Short title and commencement

- (1) These Regulations may be cited as the Plastic Bag Prohibition on Importation Regulations 2006.
- (2) These Regulations shall come into force on a day nominated by the Minister.
- (3) Notice of the commencement of these Regulations shall be published in Samoan and English in the Savali and one other newspaper circulating in Samoa.

2. Interpretation

In these Regulations, unless the contrary intention appears —

“**Act**” means the Lands Surveys and Environment Act 1986;

“**approved form**” means a form approved by the CEO for the purposes of these Regulations;

“**authorised officer**” means a person authorised in writing by the CEO to be an authorised officer for the purposes of these Regulations;

“**authorised supplier**” means a person licensed by the Chief Executive Officer to import specified plastic products;

“**biodegradable**” means being capable of natural decomposition and more specifically in relation to plastic products means when the starch contents of the plastic product is capable of being broken down by bacteria and other microorganisms;

“**Chief Executive Officer**” or “**CEO**” means the Chief Executive Officer of the Ministry administering the Act;

“**minimum standards of biodegradability**” means the standards specified in regulation 4;

“**non-biodegradable product**” means a product not capable of meeting the minimum standards of biodegradability;

“**plastic products**” means plastics bags and plastic film sheets or pellets used for the production of plastics bags and plastic film sheets.

3. Environment pollutant

For the purposes of paragraph (b) of the definition of “Environment pollutant” in section 2 of the Act, plastic products are prescribed as an environment pollutant.

4. Minimum standards of biodegradability

A plastic product complies with the minimum standards of biodegradability where:

- (a) the chemical make up of the plastic product content or raw materials contains a minimum of 50% starch; and
- (b) the plastic product can biodegrade more than 50% of its physical structure when disposed of under (aerobic) compost conditions within a maximum time period of 12 months.

5. Importation of plastic products

The importation into Samoa of plastic products is prohibited unless:

- (a) the person importing the plastic products is the holder of a licence to import those plastic products granted by the CEO or an authorised person; and
- (b) where that licence specifies conditions, those conditions are complied with.

6. Application for a licence to import plastic products

- (1) A person wishing to import plastic products may make application for a licence in the approved form to the CEO.
- (2) An applicant must provide the following with the application:
 - (a) the name and contact information of the overseas supplier or manufacturer of the plastic products; and
 - (b) confirmation that the supplier or manufacturer satisfies international standards for biodegradable products; and
 - (c) samples of the products proposed to be imported; and
 - (d) any other information reasonably requested by the CEO or an authorized officer.
- (3) Unless exempted by the CEO, an application must be accompanied by a fee of \$100.

7. Issue of licence

- (1) The CEO or an authorised officer may grant or refuse to grant a licence.
- (2) When considering an application for a licence, the CEO or authorised officer may take into consideration:
 - (a) the need to phase out non-biodegradable plastics products to protect the environment; and
 - (b) the technology and alternative products available that can be used instead of non bio-degradable plastic products; and
 - (c) whether the plastic product complies with the minimum standards of biodegradability; and
 - (d) whether the imported item is necessary for the applicant's products or business; and
 - (e) compliance by the applicant of any previous licences issued under these Regulations; and
 - (f) any other relevant matter.

8. Conditions of licence

- (1) A licence is subject to:
 - (a) conditions specified by the CEO or an authorised officer at the time of issuing the licence;
 - (b) conditions specified in these Regulations;
 - (c) any conditions imposed by the CEO under subregulation (2) after the licence is issued.

- (2) The CEO may, at any time, by notice in writing given to the licence holder, amend a licence by:
 - (a) imposing additional licence conditions; or
 - (b) removing or varying licence conditions that were imposed by the CEO or an authorised officer.

9. Labeling of plastic bags

- (1) It is a condition of a licence to import biodegradable plastic bags that each bag has labeled on it the licence number and the name of the authorised supplier.
- (2) It is a condition of a licence to import plastic products that will be used to produce biodegradable plastic bags, that each bag produced has labeled on it the licence number and the name of the authorised supplier.

10. Licensed importer to keep records

It is a condition of a licence to import plastic products that the person importing the plastic products keep accurate records of the importation and use or other disposal of the plastic products and shall upon request in writing by the CEO, make those records available for inspection.

11. Period of licence

A licence continues in force for 2 years unless it is cancelled or surrendered.

12. Cancellation and suspension of licence

- (1) The CEO may, by notice in writing given to the licence holder, suspend or cancel a licence if:
 - (a) a condition of the licence has been breached; or
 - (b) the CEO believes on reasonable grounds that the licence holder has committed an offence against the Act or these regulations; or
 - (c) the licence was obtained improperly.
- (2) A person who has been given a notice under subregulation (1) suspending or cancelling a licence may lodge an objection against that cancellation or suspension with the Minister within 7 days of service of the notice stating the grounds of objection.
- (3) After considering the objection, the Minister must:
 - (a) confirm the cancellation or suspension; or
 - (b) vary the cancellation or suspension in any way the Minister thinks fit; or
 - (c) overturn the cancellation or suspension.

13. Penalty for importation of plastic products other than in accordance with a licence

A person who imports plastic products into Samoa other than in accordance with these Regulations commits an offence and is liable to a fine not exceeding 50 penalty units.

14. Protection from liability

A person exercising a function or power under these Regulations does not incur civil liability for an act or omission done honestly and without negligence for these Regulations.