

REPORTER'S TRANSCRIPT OF PUBLIC HEARING

1001 I Street, Second Floor
Sacramento, California

Tuesday, March 21, 2023
1:01 p.m. - 2:00 p.m.

AB 793 PLASTIC CONTENT REPORTING AND
COMPLIANCE PERMANENT REGULATIONS

DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY,
DIVISION OF RECYCLING

TITLE 14. NATURAL RESOURCES
DIVISION 2. DEPARTMENT OF CONSERVATION
CHAPTER 5. DIVISION OF RECYCLING

REPORTED BY:
Kyle Miller
CSR No. 13282

1 APPEARANCES OF PANEL MEMBERS:

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3 Claire Derksen,
4 Regulatory Analyst

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6 Donnet McFarlane,
7 Regulatory Analyst

8 Craig Castleton,
9 Regulations Supervisor

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11 Kris Chisholm,
12 Attorney IV for the Regulations Unit

13 Kelly Cavileer,
14 Associate Governmental Program Analyst,
15 Division of Recycling

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17 Graham Johnson,
18 Research Data Specialist II,
19 Division of Recycling

20 Amy Cameron,
21 Assistant Director,
22 Division of Recycling

23 Sharon Siozon,
24 Recycling Specialist III,
25 Division of Recycling

1 Sacramento, California, Tuesday, March 21, 2023

2 1:01 p.m. - 2:00 p.m.

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5 MS. DERKSEN: Good afternoon, everyone. My name is
6 Claire Derksen. I am an analyst for the regulations
7 unit. I note for the record it is 1:01 p.m. Thank you
8 for joining us for today's public hearing on the plastic
9 content and compliance regulations in response to
10 assembly bill AB 793.

11 At the back of the room, there's an optional
12 sign-in sheet. If you are interested in receiving
13 updates about the AB 739 rulemaking, please add your
14 contact information and we will add to you appropriate
15 CalRecycle list serve.

16 Before we begin, there are a couple of
17 announcements that need to be made. First, this public
18 hearing will be recorded. There is also a court
19 reporter in attendance to transcribe the proceedings of
20 this hearing. Second, we have a required evacuation
21 announcement. Please look around, look around now, and
22 identify two exits closest to you. In some cases, an
23 exit may be behind you.

24 In the event of a fire alarm, we are required
25 to evacuate this room immediately. Please take your

1 valuables with you and do not use the elevators. While
2 staff will endeavorer to assist you to the nearest exit,
3 you should also know that you may find an exit door by
4 the following ceiling-mounted exit signs.

5 Evacuees will exit down the stairway and
6 possibly to a relocation site across the street. If you
7 can not use the stairs, you will be directed to a
8 protected vestibule inside a stairwell. Should we have
9 to relocate out of the building, please obey all traffic
10 signals and exercise caution crossing the street.

11 MR. CASTLETON: Good afternoon, everyone. My name
12 is Craig Castleton. I'm a supervisor with the
13 regulations unit. The purpose of today's hearing is to
14 receive comments on the proposed regulations that were
15 published by the Office of Administrative Law and
16 noticed to the public on February 3, 2023.

17 The publishing of that notice started a
18 45-day public comment period. And CalRecycle welcomes,
19 and will respond to, all comments received at today's
20 hearing and during the 45-day comment period in the
21 final statement of reasons.

22 On today's agenda we'll have an overview of
23 the steps taken thus far in this rulemaking and the
24 current status, followed by an opportunity to submit
25 your comments on the proposed regulations.

1 Present at the hearing today, we have
2 Amy Cameron, assistant director, Division of Recycling;
3 Sharon Siozon, special specialist III, Division of
4 Recycling; Graham Johnson, research data specialist II,
5 Division of Recycling; and Kelly Cavileer, associate
6 governmental program analyst, Division of Recycling. We
7 also have other staff from Division of Recycling,
8 Beverage Container Recycling Program, and the legal
9 affairs office with us today.

10 Next slide, please.

11 So as a brief overview of the steps taken
12 thus far for this rulemaking, the slide shows that
13 public workshops were held in December 2020, April 2021,
14 and August 2021 to solicit feedback on proposed
15 regulatory concepts and language.

16 Following those workshops, the concepts
17 regulatory language were developed into formal
18 rulemaking documents that were published and noticed to
19 the public on February 3, 2023, starting the 45-day
20 public comment period. Today's the date of the public
21 hearing, and CalRecycle welcomes your comments on the
22 proposed regulations.

23 Next slide, please.

24 And following today's hearing, CalRecycle
25 will consider all comments received and respond to those

1 comments as part of the final statement of reasons.
2 Those statements of reasons will be submitted to the
3 Office of Administrative Law, or OAL, as part of the
4 final official rulemaking file for these proposed
5 regulations. And then OAL will review the rulemaking
6 file.

7 Once OAL approves the regulations and files
8 them with the Secretary of State, they will become
9 effective.

10 And I will now pass back to Claire to open
11 the comments.

12 MS. DERKSEN: CalRecycle welcomes comments from the
13 public on the proposed AB 793 regulations. As a
14 reminder, the 45-day comment period ends at the
15 conclusion of today's public hearing. Now we would like
16 to invite your comments on the proposed regulatory
17 changes. As a reminder, please be respectful when
18 speaking.

19 Seeing no one left in the hearing room that
20 wishes to make a comment, we will now turn to the Zoom
21 room.

22 To make an oral comment via Zoom, please
23 raise your hand and the host will unmute you.

24 MS. EAGLES: Good afternoon. I think I'm unmuted.
25 Shall I go ahead? This is Kate Eagles. I'm not sure.

1 No one said anything.

2 MR. CASTLETON: Yes, please go ahead.

3 MS. EAGLES: Okay. Good.

4 Can I ask a clarifying question before I
5 start? Are written comments still accepted through the
6 end of business today or through midnight tonight? That
7 was my understanding, but I'm not clear if that is the
8 case.

9 MR. CHISHOLM: Hi. This is Kris Chisholm.

10 To answer your question, yes, please send in
11 your comments. They'll be accepted up until midnight
12 tonight.

13 MS. EAGLES: Okay. Thank you for clarifying that.

14 So good afternoon, everybody. Let me know --
15 I don't know what my time limitations are, so please let
16 me know. But I am Kate Eagles, program director with
17 the Association of Plastic Recyclers. Thank you for
18 allowing me to comment.

19 We strongly support AB 793 as a policy to
20 drive post-consumer recycled content with ambitious but
21 achievable targets, and we appreciate also the
22 reasonable exemptions and exceptions as needed based on
23 changing market conditions. But we do have a couple of
24 comments that we would kindly ask you to consider.

25 We remain opposed to the inclusion of caps or

1 closure materials and label weight used on CRV beverage
2 containers as part of the total weight against which the
3 requirements are assessed.

4 We find -- for the following reasons: That
5 we find that this requirement is outside the original
6 discussions around the bill and its commonly understood
7 intent; that it's not practical or technically feasible
8 to put content enclosures or labels at this time. So
9 requiring that is not a mechanism to increase cap and
10 label recycling nor one that will reduce litter in any
11 way that we can see.

12 What this requirement will do is increase the
13 amount of -- for example, of recycled PET resin required
14 in an average sort of light water bottle. It would push
15 it from about 15 to 17 percent and then, in a few years,
16 from about 25 to 28 percent content. And this is
17 inconsistent with other state reporting requirements
18 like in Washington or New Jersey.

19 And so we feel like it detracts and distracts
20 from the intent and good objectives of this bill to
21 really increase consistent recycled content use in
22 beverage bottles.

23 Couple more things. We would like to see
24 consideration of a third-party certification for
25 post-consumer resins and products containing PCR. I

1 think this would -- we support this as a compliance
2 option and alternative to the recordkeeping requirements
3 that are fairly heavily laid out in the rules here. So
4 we would request the state consider this as an option, a
5 third-party compliance.

6 It also ties in with the third point I wanted
7 to make, is: We're not quite sure we understand the
8 recording requirements from the manufacturers of
9 post-consumer recycled plastics. So the intent of the
10 statute would be to put the responsibility of reporting
11 on the brand company or beverage manufacturer. So the
12 recycled plastic manufacturer would usually provide that
13 information to those brand companies as part of their
14 business transactions.

15 So we don't really see the reason to provide
16 an additional reporting burden to them, to report the
17 state. And, again, this is where a third-party
18 certification option might come in handy.

19 But back to the manufacturers of
20 post-consumer recycled plastics, we're just not quite
21 clear. Would this be only in state? You know, you
22 might -- for example, in a PET bottle, you might get
23 recycled resin -- I should have started my video. You
24 might have gotten -- you might have recycled resin from
25 an out-of-state provider or even out-of-the-country

1 provider. So would they be required to report to the
2 state? And wouldn't that be simpler if it came through
3 the brand company with some sort of chain of custody
4 transparency requirement versus a separate reporting
5 requirement?

6 If it's a market-development sort of
7 exercise, we would totally appreciate that, because
8 there are challenges for our very robust and sort of
9 healthy reclaimory infrastructure for PET, again, in
10 California. But it's not really positioned that way, as
11 a market development assessment tool as the reporting
12 requirement. And we don't quite understand the need for
13 that or the extent of that in terms of in state, you
14 know, in country, et cetera.

15 I'll be quiet now and leave it there. We
16 will submit written comments, but any comments you have
17 or clarifications on the manufacture of post-consumer
18 recycled plastics requirement to report would be
19 helpful. Thank you.

20 MR. CASTLETON: Thank you for your comment.

21 Again, to make an oral comment via Zoom,
22 please raise your hand and the host will unmute you. To
23 make a written comment via Zoom, please use the chat
24 box. Staff will read the text comments aloud for the
25 court reporter.

1 CalRecycle welcomes comments from the public
2 on the proposed AB 793 regulations. As a reminder, the
3 45-day comment period ends at the conclusion of today's
4 public hearing.

5 To make an oral comment via Zoom, please
6 raise your hand and the host will unmute you. To make a
7 written comment via Zoom, please use the chat box.
8 Staff will read chat comments aloud for the court
9 reporter.

10 Written comments may also be submitted to
11 regulations@calrecycle.ca.gov, with the subject line
12 "AB 793 plastic content reporting and compliance
13 rulemaking."

14 We will be staying online until 1:30. So if
15 you would like to make a comment, please enter in the
16 chat box and we'll read it out loud for the court
17 reporter.

18 CalRecycle welcomes comments from the public
19 on the proposed AB 793 regulations. As a reminder, the
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21 public hearing.

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23 via Zoom, please raise your hand and the host will
24 unmute you. To make a written comment via Zoom, please
25 use the chat box. Staff will read comments aloud for

1 the court reporter.

2 We will be staying till 2:00 p.m. online. So
3 please make your comments.

4 We have a comment in the chat. It says:

5 "Hi. I'm Anna-Marie Cook with Kamilo,
6 Incorporated. Without supply chain visibility
7 there are risks; and without third-party
8 verification of secure and internal supply chain
9 transparency, there is a risk of fraud.
10 Third-party analogue certification or third-party
11 digital verification substantially reduces those
12 risks, and we urge CalRecycle to include
13 independent third-party certification as an option
14 in the regulations."

15 Thank you for your comment.

16 We have another comment in the chat.

17 Anna-Marie cook with Kamilo, Incorporated, with another
18 comment:

19 "Additionally, to align with and support
20 intent of AB 881, we strongly urge the department
21 to require reporting, under penalty of perjury, the
22 country of origin for post-consumer recycled feed
23 stock. In support of developing California
24 domestic recovery markets and to increase in-state
25 recycling capacity, we advocate for the department

1 of promote traceability of origin of materials
2 throughout the supply chain, with preference for
3 California collection and processing and, if
4 possible, manufacturing. This has been the added
5 benefit of reducing GHGs from transportation of
6 materials."

7 Thank you.

8 CalRecycle welcomes comments from the public
9 on the proposed AB 793 regulations. As a reminder, the
10 45-day comment period ends at the conclusion of today's
11 public hearing. We will remain online via Zoom until
12 2:00 p.m.

13 To make an oral comment via Zoom, please
14 raise your hand and the host will unmute you. To make a
15 written comment via Zoom, please use the chat box.
16 Staff will read chat comments aloud for the court
17 reporter.

18 Written comments may also be submitted to
19 regulations@calrecycle.ca.gov, with the subject line
20 "AB 793 plastic content reporting and compliance
21 rulemaking."

22 CalRecycle welcomes comments from are the
23 public on the proposed AB 793 regulations. As a
24 reminder the 45-day comment period ends at the
25 conclusion of today's public hearing. We will be online

1 via Zoom until 2:00 p.m. today.

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4 written comment via Zoom, please use the chat box.
5 Staff will read chat comments aloud for the court
6 reporter.

7 Written comments may also be submitted to
8 regulations@calrecycle.ca.gov, with the subject line
9 "AB 793 plastic content reporting and compliance
10 rulemaking."

11 We have a question from Kate Eagles:

12 "Will we be discussing any of the comments
13 made today, or will staff be asking any questions
14 based on comments made?"

15 MR. CHISHOLM: This is Kris Chisholm.

16 So the purpose of this hearing today is to
17 submit comments about the rulemaking proposals noticed
18 for AB 793. Our responsibilities and requirements are
19 to respond to those comments in the final statement of
20 reasons. So if you have a comment, we'd love to take it
21 in, and we'll respond to it when we're developing the
22 SOR, or final statement of reasons.

23 MS. DERKSEN: Thank you.

24 CalRecycle welcomes comments from the public
25 CalRecycle welcomes comments from are the public on the

1 proposed AB 793 regulations. As a reminder the 45-day
2 comment period ends at the conclusion of today's public
3 hearing. We will be online via Zoom until 2:00 p.m.
4 today.

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7 written comment via Zoom, please use the chat box.
8 Staff will read chat comments aloud for the court
9 reporter.

10 Written comments may also be submitted to
11 regulations@calrecycle.ca.gov, with the subject line
12 "AB 793 plastic content reporting and compliance
13 rulemaking."

14 MR. CASTLETON: This is Craig Castleton, just
15 reading out a message in the chat from Kate Eagles. It
16 says:

17 "Thank you, everyone. And we will submit
18 written comments this evening and encourage you to
19 contact us with any questions as you work through
20 comments."

21 Thank you for your comment.

22 MS. DERKSEN: Thank you, all, for joining us today.
23 If you would like to stay informed on the status of the
24 AB 793 proposed regulations, please subscribe to the
25 list serves, shown in the presentation slide.

1 The PowerPoint presentation and recording
2 from this hearing, along with comments received during
3 the public comment period, will be posted on the AB 793
4 rulemaking web page for future reference.

5 Thank you. That brings today's hearing to an
6 end. I note that the time at the conclusion of the
7 hearing is 2:00 p.m.

8 (Hearing concluded)

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I, Kyle Miller, CSR No. 13282, certify:

That the foregoing proceedings were taken before me, via remote videoconference, at the time and place herein set forth; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

The dismantling, unsealing, or unbinding of the original or certified transcript will render the reporter's certificate null and void.

I further certify that I am not financially interested in the action and that I am not a relative nor an employee of any party to this action.

Dated this 31st day of March, 2023.



Kyle Miller
CSR NO. 13282