

Statewide Commission on Recycling Markets and Curbside Recycling Draft Meeting Notes

Date: November 3, 2021

Time: 9:00 AM – 12:00 PM

Present:

Commissioners Bouchard, Cadena, Davis, Dell, Donlevy, Lapis, Kalpakoff, Medrano, Oseguera, Sanborn, Schneider, Skye, Toyoda, Valle, and Ward.

Absent:

Commissioner Ferrante

Agenda:

Agenda Item 1: Call to Order, Roll Call, and Establishment of Quorum

Chair Sanborn brought the Commission to order. Commissioners Ferrante and Schneider were absent. A quorum was established.

Public comments: None

Agenda Item 2: Review and Potential Approval of Meeting Notes

No changes were made to the draft meeting notes from October 20, 2021. Commissioner Ward moved to approve the meeting notes and Commissioner Skye seconded. The meeting notes were unanimously approved.

Commissioner Schneider arrived at 9:04 am.

Public comments: None

Agenda Item 3: Public Comment Review - Items Not on the Agenda

The comment from Jackie Nuñez about agave straws was referred to the Single Use Plastics two-person committee. Commissioner Lapis suggested that the two-person Committee on labeling might also be appropriate to refer this comment.

Commissioner Oseguera acknowledged the importance of the comment from Colleen Foster on a statewide education campaign.

The comment from Colleen Foster on single-use plastics was referred to the Single-Use Plastics two-person committee.

Public Comments (see full comments in Appendix 1):

- Jackie Nuñez
- Colleen Foster (1)
- Colleen Foster (2)

Agenda Item 4: Data Review and Requests

Chair Sanborn noted that the response from CalRecycle on the labeling enforcement data request has been posted on the Commission's Google Drive. Commissioner Ward stated that without clear modes of enforcement about mislabeling, the recommendations of the Commission will be hollow.

Commissioner Davis made an additional data request related to the previous data request on labeling enforcement. He asked that CalRecycle clarify if there has been any enforcement related to plastic bags related to PRC 42281 and 42281.5.

Commissioner Dell reiterated a previous data request asking if the Commission can write to producers of products and packaging that have been mislabeled as recyclable or compostable. CalRecycle's Policy Director, Zoe Heller, provided a response that CalRecycle recognizes and respects the independence of the Commission and its unique statutory role as an advisory body. As such, CalRecycle encourages the Commission to carefully consider its role when determining whether letters to industry fall within its statutorily mandated authority pursuant to Public Resources section 42005.5.

Commissioner Donlevy requested an update on a replacement for Eric Potashner. Policy Director Heller responded that, at this time, the Director will not be appointing a 17th commissioner. At the end of the first two years, the Director will review the makeup of the Commission and how it aligns with statutory requirements and make decisions about future appointments at that juncture.

Commissioner Lapis asked about when the survey data from CalRecycle's Education & Outreach Campaign will be made available per the data request made during the October 20th meeting. Policy Director Heller responded that survey data will be provided to the Commission soon.

Public Comments: None

Agenda Item 5: Next Meeting and Agenda Items for Future Meetings

Commissioner Donlevy requested that the following be discussed at a future meeting of the Commission: (1) Commission Appointments, including term limits and whether the Chair position should be rotated; and (2) Commission Time and Staffing, including requesting a budget for CalRecycle staff to support Commission work, stipends for Commissioners' time, and reimbursement for travel and expenses.

Commissioner Skye noted that the Commissioners need to focus on items that will help them get their next report published in December. He also noted that determining who serves on the Commission is largely a function of CalRecycle and they would likely determine things like term limits. Commissioner Skye also supports having all Commission meetings be three hours and suggested more discipline about focusing on specific topics to ensure there is enough time to address all topics.

Commissioner Schneider recommended that CalRecycle does not replace the entire Commission at once to keep some institutional knowledge, instead suggesting a rotation of replacements.

Commissioner Lapis stated that there is value in the Commission considering term limits and the composition of the Commission. CalRecycle's authority is to appoint a Commission and they do not have the ability to remove Commissioners or impose term limits. As an independent body, the Commission should govern themselves.

Commissioner Oseguera noted that leaving the Commission should be decisions made individually by Commissioners. Since the Commission has been successful in addressing its charge, there should be a constructive reason for re-considering the Commission composition and membership.

Commissioner Donlevy responded that having new ideas and new people will be a benefit to the state.

Chair Sanborn noted that the statutory requirement is to submit an update to the report by July 1, 2022. The December report is not required in statute but is a good idea to influence the legislature before the next legislative session.

Chair Sanborn suggested postponing discussion on membership and Commission time until January 2022 to spend more time working on the proposals for the December report. This topic will be added as a 20-minute agenda item in the first January meeting.

Commissioner Davis made an official data request to CalRecycle to get guidance on whether Commissioners can reach out individually or as a two-person Committee to CalRecycle staff to discuss Commission-related issues outside of a publicly noticed meeting? If one member of a two-person committee meets with CalRecycle staff, can that information be shared with the second person in that Committee outside of a publicly noticed meeting?

Chair Sanborn proposed that all future Commission meetings be limited to three hours and that the Commission will not meet on January 5, 2022. Commissioners agreed on this schedule with only one meeting in January on January 19th 9-12.

Public Comments: None

Agenda Item 6: Report Outs from All Two-Person Committees

The following two-person committees provided updates on work progress:

Labeling and Media:

1. Contamination, labeling, and outreach: Dell, Valle

Commissioner Dell presented a policy proposal on “Recycled Content Traceability”. The draft policy recommendation was to require plastic bag manufacturers to report information to certify their recycled plastic source.

Commissioner Schneider expressed that care should be taken to not negatively impact the commercial film recycling stream.

Commissioner Davis noted that PRC 42281.5 requires certification of recycled content for plastic bags. Commissioner Davis made an official data request to CalRecycle about the traceability of recycled content for plastic bags. Specifically, does CalRecycle certify post-consumer recycled content (reference to PRC 42281, 42281.5, 42282).

Commissioner Davis asked CalRecycle to explain how recycled content certification is done, if any results are public, and whether this process been effective?

Commissioner Donlevy noted that the issue of confirming or certifying post-consumer content should be expanded beyond plastic to other materials, including glass.

Commissioner Dell suggested creating a framework for recycled content verification for multiple material types.

Commissioner Ward noted that there is a risk of trying to address the recycled content issues without also addressing the oversupply issues of virgin materials in the supply chain.

A new two-person Committee on glass packaging was formed with Commissioners Davis and Donlevy.

Commissioner Dell then discussed the proposal for the anti-contamination letter campaign. Commissioner Dell noted that if any Commissioners are uncomfortable with the proposal to send a letter to the Attorney General of California with a list of “labels of concern” and request the state’s authority to investigate and act as needed, we should not do it.

Commissioner Valle suggested that a letter from the Chair and Vice Chair to the Attorney General followed up with a phone call may be the best path forward given that CalRecycle does not have enforcement authority in this domain. Commissioner Valle suggested that this letter be reviewed by the Commission to be sent to the Attorney General.

Chair Sanborn reviewed statute (AB 1583) to discuss whether the letter to the Attorney General is within the Commission’s existing authority. Commissioner Sanborn presented another option of drafting a policy proposal that would recommend more enforcement authority related to the mislabeling of products and packaging.

Commissioner Skye made a motion that the Commission: (1) Send a letter to the Attorney General framed as a data request instead of a recommendation and ask if it would be helpful to their office if the Commission identified mislabeled products; and (2) draft a policy proposal to recommend new enforcement authority in this area.

Sanborn seconded Commissioner Skye's motion. Commissioner Toyoda further supported this motion.

Chair Sanborn made a friendly amendment to Commissioner Skye's motion to send the letter to CalRecycle and CalEPA, with a cc to the Attorney General and legislators.

Commissioner Ward noted that this letter could be included in the January report like the Bottle Bill letter that was included in the report submitted in June 2021

Commissioner Dell supported the motion with the friendly amendment but deferred to another Commissioner to take the lead writing that letter.

Commissioner Davis clarified that the Commission can issue recommendations and share them with state and federal agencies as well as the legislature; thus, it would be within the authority to cc the Attorney General on this recommendation. Commissioner Oseguera further supported the proposed motion with the friendly amendment.

Vice Chair Valle volunteered to take the lead on drafting the letter and will work with Commissioner Dell to provide concrete examples and make the purpose of the letter clear. The draft letter will be reviewed at the next Commission meeting on November 17th, 2021. Commissioner Davis suggests fully documenting any examples included in this letter.

The Commission voted unanimously to support this motion with the friendly amendment.

Waste Reduction, Recycling, and Other:

2. Waste Prevention: Schneider, Ward –Commissioner Ward noted that they will be preparing recommendations for the July 2022 report.
3. Bottle Bill issues: Ward, Valle – Commissioner Ward shared that this two-person committee will update recommendations in the Bottle Bill letter from the previous report.
4. Liaison with Oregon Department of Environmental Quality: Toyoda, Lapis – nothing new to report.
5. Carpet and Flooring: Davis, Sanborn - Commissioner Davis mentioned a report from Office of Environmental Health Hazard Assessment (OEHHA) to determine the risks associated with artificial turf, specifically related to the tire content. Commissioner Lapis clarified that this report was focused on sports fields.
6. Single-use plastics and artificial turf: Schneider, Ward – Commissioner Ward presented the first reading of "Single-Use Plastics Policy Strategies Overview."

Commissioner Skye acknowledged that there is not a one size fits all solution for addressing single-use plastics. He recommended that the single-use plastics two-person Committee identify specific categories of single-use plastics and acknowledged that the tidal wave of plastic products will undermine the ability of California to achieve a circular economy.

Commissioner Ward suggested creating a recommendation for a resin-focused extended producer responsibility (EPR) program instead of a program that delineates by

product or function. Another option for addressing single-use plastics could be to look at 2022 ballot initiative and what recommendations they would have if that ballot initiative passes.

Commissioner Davis expressed concern about including synthetic turf and artificial turf in the single-use plastic two-person committee. Chair Sanborn noted that this could be moved to the Carpet and Floor Committee. Commissioner Schneider noted that it is problematic to move artificial and synthetic turf to the Carpet and Floor Committee since she has already expended much time on this topic. The topic of artificial and synthetic turf was moved to the Waste Prevention two-person committee.

Chair Sanborn stated that it would be good to have at least one waste prevention policy proposal in the January 2022 report given the importance of waste prevention. Commissioner Schneider stated that the Waste Prevention two-person Committee may have two waste prevention policy proposals for food service packaging and synthetic turf.

Commissioner Schneider stated that SB 974 (2016) prevents the banning of synthetic turf, however she cannot find the author given that it was part of an omnibus bill. Commissioner Lapis will assist.

7. Right to repair: Davis, Ward – Commissioner Davis provided the first reading of the “Right to Repair Update” and noted that there is a lot happening on right to repair at the Federal level. The policy proposal includes a recommendation that the California Legislature work with the Federal Trade Commission (FTC) to assure Californians can repair products they own more easily and affordably.

Commissioner Lapis suggested considering the French model for Right to Repair as part of the recommendation. Commissioner Davis noted that the French model does not have third party verification. Commissioner Lapis also noted that there is not an existing mechanism for the CA Legislature to interact with the FTC, thus suggesting more clarity in the proposal.

Commissioner Sanborn noted the importance of Right to Repair for Waste Prevention

8. Methane emissions reductions: Cadena, Davis - Commissioner Davis discussed the “Composting Greenhouse Gas Emission Reductions” policy proposal that recommends that CalRecycle and the California Air Resources Board update the emissions factors for composting to include emissions reductions from methane as a short-lived climate pollutant. The policy proposal also has recommendations to include emission reductions in CEQA analyses and to classify compost facilities as essential public services.

Commissioner Skye noted that other organics diversion options, such as anaerobic digestion, also have methane emissions reduction benefits and should also be considered in this proposal.

Commissioner Kalpakoff stated that this was an important proposal that warrants further discussion and not sure that it goes far enough. Commissioner Kalpakoff noted that it will be challenging to make a statewide recommendation because air quality issues are implemented locally by air districts. He would like to continue this discussion when there is additional time.

9. Report Structure and Editing, Plus HHW, EPR & Other Items: Sanborn, Ward – Commissioner Ward asked the Commissioners who worked on a policy proposal for the last report to please revisit policies and provide any updates by next Wednesday or November 24th at the very latest.

Market Development:

10. Construction and Demolition for Market Development Committee: Sanborn, Toyoda - Skipped
11. Thermoforms: Davis, Sanborn – Skipped

Organics:

12. Organic Materials Renewable Technologies: Skye, Oseguera – Commissioner Skye requested that the name of this two-person Committee be changed to “Renewable and Recyclable Technologies”
13. Food Waste Prevention and Rescue, Exports and Precautionary Principle: Skye, Lapis – Skipped
14. Organics contamination: Kalpakoff, Toyoda – Skipped
15. Organics infrastructure development & procurement: Kalpakoff, Oseguera – Skipped

Public Comments (see Appendix I for full comment):

- Dianne Woelke (1) – from October 20th meeting
- Diana Conway - from October 20th meeting
- Dianne Woelke (2)
- Laura Rosenberger Haider (1)
- Laura Rosenberger Haider (2)
- Peter Mui

Agenda Item 7: Discussion with CalRecycle on Education & Outreach

Policy Director Heller addressed the Commission as a continuation to the October 20th discussion on education and outreach by CalRecycle’s Office of Public Affairs. She gave a brief overview of education and outreach conducted by CalRecycle and summarized key topics raised by the Commission at the last Commission meeting. She specifically asked for feedback from the Commissioners on programs and tools that they have used or seen to successfully bring about behavior change related to waste or recycling.

Commissioner Ward acknowledged that there will be local differences on what is recyclable and compostable and suggested a graphically consistent method of communicating what is recyclable and compostable in each community.

Commissioner Oseguera noted that he appreciated that CalRecycle is diving into the comments that the Commissioners provided at the previous meeting related to the education and outreach campaign.

Commissioner Davis stated his organization is currently conducting a campaign that includes social media and door-to-door outreach associated with cart audits.

Commissioner Davis will share the final report with CalRecycle once it is available. Commissioner Davis also raised the issue that if an item doesn't go to recycling or organics collection bin, then it goes to landfill. If we cannot tell people it goes to the landfill, then they are only hearing half of the story. He emphasized the need to tell people to put it somewhere, even if that place is in the trash bin.

The Commission will have the topic of CalRecycle's education and outreach as a standing monthly agenda item, including 20 minutes at the December 1st meeting.

Public Comments: None

Agenda Item 8: Meeting Summary and Closing

The meeting was adjourned at 11:59am.

Public Comments: None

Appendix 1: Public Comments

Diana Conway (1), Safe Healthy Playing Fields Inc

(Comment received at the end of the October 20th, 2021 meeting and was published but not read. Was read during November 3, 2021 meeting)

Synthetic turf fields are NOT recyclable anywhere in the US. Our 501-c-3 all-volunteer nonprofit has said this for over a decade. And industry has finally conceded we are right. In April 2021 when asked how many used synturfs were *ever* recycled in the US, the rep for TenCate (a global synturf manufacturer) stated during a public hearing "The answer is none." Since 1966. Ever. Today we know there are over 15,000 synturf fields in the ground right now and over 1,000 being installed annually (per the industry trade group STC). We believe those numbers are low. The scale of waste is staggering. At end-of-life, each one is 250+ tons of mixed toxic plastic waste with nowhere to go. To restate: Synturf can NOT be recycled anywhere in the US. It is being illegally dumped all over the US and Europe, as we helped document in stories picked up by Salon, The Atlantic, The Boston Globe, Fair Warning, The Intercept, and others. Remote areas are widely used to "store" what amount to hundreds of thousands of tons -- literally mountains of used synturf leaching its chemicals and plastics into our soil, air and water without regulation. Additionally, before its removal after 7-10 years, each field is

estimated *by industry* to lose one to *five tons* of infill, per field, per year. Let that sink in-- it literally does. On top of the infill loss, the microplastic load is alarming: A typical synturf field is two acres of plastic surface, *plus* the surface area of some 800,000,000 (800M) plastic blades, all shedding microplastics from day 1. This load will dwarf the good work you are doing to educate the public and boost recycling participation. The European Chemicals Agency (ECHA) is preparing to ban synturf with tire infill as a *leading* contributor to microplastic pollution. Synturf is a toxic stew of heavy metals, phthalates, carcinogens, endocrine disruptors, PFAS (yep), plasticizers and more. Grass is safer, softer, cooler, cheaper, and infinitely recyclable, compostable and renewable. Thank you for considering these comments, I would be happy to supply independent 3rd party verification of the disposal and toxicity issues. These points are beyond dispute. Diana Conway, President Safe Healthy Playing Fields Inc

Dianne Woelke, Safe Healthy Playing Fields

(Comment received during the October 20th, 2021 meeting and was published but not read. Was read during November 3, 2021 meeting)

There is nowhere in the US where synthetic turf is recycled. The industry itself has admitted this in various public, recorded, meetings. I would ask that Mr. Bender provide proof of his ability to do this, clarify the number of turf fields he has recycled and the resulting products made from the recycled mixed plastic that contain such additives as flame retardants, PFAS and much more.

Colleen Foster (1), City of Oceanside

I support every aspect outlined in the Single-use Plastics Policy Strategies Overview, but there needs to be additional direction and recommendations on creating a Policy Strategy that incorporates the creation of markets for post-consumer plastic resins, not just for “Producer Responsibility” and education/engagement to producers/investors/institutions. In regards to Single-use Plastics Policy Strategy “Deposit & Redemption”: If similar to the Bottle Bill, would this be funding mechanisms for cities? How would cities be able to use these funds? Bottle Bill funds in past have not been effective to reduce litter, or reduce the consumption of targeted materials (in this case, single-use plastics derived from pre-consumer plastic resins). In regards to Single-use Plastics Policy Strategy “Product or Function Bans or Restrictions”: Jurisdiction bans put the burden on municipalities, who must then jump through hoops to implement within their City. Product or Function Bans or Restrictions are needed, but should be coming from the State as the regulator/enforcer.

Jackie Nuñez, The Last Plastic Straw/ Plastic Pollution Coalition

My name is Jackie Nuñez, I am the founder of the Last Plastic Straw, and the Advocacy Program Manager for Plastic Pollution Coalition. I have recently been made aware of agave straws on the market throughout California. Currently there are many agave straw companies selling Polyagave products, (whose parent company is BioSolutions)

that are sharing the biodegradability recyclability claims of the material. Article on BioSolutions targeting the US market:

<https://www.plasticsnews.com/article/20180329/NEWS/180329864/biosolutions-to-target-us-for-biocomposites-growth> CEO of BioSolutions: Ana Laborde

<https://www.linkedin.com/in/analaborde/?originalSubdomain=mx> These are the some of the claims made by companies selling "polyagave" straws: ECOGAVE: "Biodegrades in 100 days in aerobic or non aerobic conditions, degrades In landfills, and it Is recyclable. Our straws take 75-200 days to degrade, depending on the conditions Our straws will degrade anywhere, but don't litter! Ecogave straws are both recyclable and disposable, meaning you can put it in the recycle bin or trash can. The straws degrade within 75 days In marine conditions." Penka: "Agave straws are consumed by microorganisms and will fully biodegrade in between 1 to 5 years in normal landfill conditions" There is also the claim of "100% recyclable" on the website and I see the resin code for #5 PP (Polypropylene plastic) is shown as well. Unfortunately this claim would be false since it is known that plastic straws no matter what resin code they are, will not be recycled. If straws are "biodegradable" and are disposed of in a recycle bin (because of the false recycling claim) it would contaminate the whole load of possible recyclable items and it will all just be buried in a sealed landfill which brings us back to the biodegradability claims of "normal landfill conditions" and microorganisms "breaking down" the straws in 1-5 years....of which I would love to see more specifics on how that all works. I have also read this from an article mentioning a partnership with Jose Cuervo: "Created in partnership with the scientists at BioSolutions Mexico and the production team at Mexico-based PENKA, Jose Cuervo's straws are made with an agave bio-based composite, replace around a third of the polymers used in traditional straw production, and decompose up to 200 times faster than regular plastic."* (The agave straws are basically 2/3 PP and 1/3 agave fiber.)

Colleen Foster (2), City of Oceanside

A statewide education campaign would help resolve inconsistency issues in regards to what's recyclable and what's not. Before developing, its imperative that the State works with all processors to identify what is able to be recycled versus what is unable to be recycled. For example, some haulers that are in proximity to each other have differences in the items they are able to recycle. Consistency and accuracy of what is being recycled is important to ensure a level playing field amongst all processors. Without this, a statewide education campaign will fall short due to the nuances amongst processors.

Dianne Woelke (2), Safe Healthy Playing Field, Inc.

Residential, commercial and sports fields are all made from the same plastic resin pellets. There is variation in the use of terminology, but they are all primarily made made by the same manufacturers as household carpets and primarily in Dalton and Calhoun, GA. The Microplastics pollution from these plastic carpets is a global issue

being called out around the world. <https://www.beyondplastics.org/press-releases/report-plastics-is-the-new-coal>

Laura Rosenberger Haider (1), Fresnans Against Fracking, CEJC, Sierra Club

Synthetic grass turf should be illegal. Especially at higher elevations, plastics decompose from the UV rays in sunlight releasing PCBs. Then, mice shred plastic releasing dust in an attempt to make a nest. Nearby that mouse was found dead.

Laura Rosenberger Haider (2)

My plastic tarp decomposed and tore easily after 2 years outdoors in the mountains in the sun.

Peter Mui, Fixit Clinic

One weakness with France's Index of Durability as currently implemented is that the durability number is manufacturer determined. Fixit Clinic is a founding member of the global Open Repair Alliance and we're documenting and collecting end-consumer field data, in California and beyond, on the true durability and repairability of items once they're in service.