

Statewide Commission on Recycling Markets and Curbside Recycling Draft Meeting Notes

Date: March 16, 2022

Time: 9:00 AM – 12:00 PM

Present:

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

Absent:

Commissioners Cadena and Valle

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

Chair Sanborn brought the Commission to order. Commissioner Cadena and Vice Chair Valle were absent. A quorum was established.

Public Comments: None

Agenda Item 2: Review and Potential Approval of Meeting Notes

Commissioners reviewed the meeting notes from February 16, 2022. Commissioner Ward moved to approve the meeting notes and Commissioner Oseguera seconded. The meeting notes were unanimously approved.

Public Comments: None

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

In response to the public comment from Gail Brice, Chair Sanborn noted that there will be no additional action on carpet at this point.

In response to the public comments from Shirley Freriks, Chair Sanborn noted that the Commission is working hard to find markets for these materials.

Commissioner Ward said there is a production issue; there is an overabundance of plastics that will not find markets if there is no connection between market demand and production.

Commissioner Dell added that end-of-pipe solutions are not the optimum answer here. She noted that plastic recycling facilities require a lot of fresh water and energy, and microplastics are being generated in mechanical recycling facilities. Therefore, she suggested that the Commissioners need to be careful about pushing for more plastic recycling facilities in CA. Commissioner Dell highlighted the need for source reduction.

Chair Sanborn stated that in the waste management hierarchy, source reduction is the highest preference.

Public Comments (see Appendix I for full comment):

- Gail Brice, XT Green
- Shirley Freriks, Nevada County Waste NOT (1)
- Shirley Freriks, Nevada County Waste NOT (2)

Agenda Item 4: Design for Recycling Discussion

Commissioner Skye led the second reading of the “Designing for Recyclability” proposal. He noted that this proposal aligns with the Commission’s previous discussion, in prioritizing upstream source reduction and prevention strategies.

Commissioner Skye reviewed recent edits to the proposal since the last Commission meeting and led revisions to it, which is posted on the Commission’s Google Drive. Commissioner Skye noted that the work of the proposal is intended to build off of existing law and rulemaking. The proposal includes three main actions: (1) Creation of a Prohibited Unnecessary Product List; (2) Ensuring that design for recyclability is consistent with labeling policy; and (3) Enforcement and monitoring.

Chair Sanborn noted that embedded batteries are a huge issue for recyclers, and a proliferating material in many products. She clarified the proposal’s intent that if it is not a necessary essential function, these products would go away (e.g., light up shoes, singing balloon, singing birthday card). Currently multi-material products are going to market without checks and balances, and it is cost prohibitive to fix this on the back end. The Commission intends to invite relevant companies to share their concerns.

Commissioner Skye noted that for products like greeting cards with batteries, people have no idea what will happen to product after received and the battery is very likely to end up with paper products in the recycling bin. He asked: What is the end-of-life pathway? What is the value of including batteries in this product? Commissioner Skye noted that these products are often labeled recyclable and design must take any end-of-life processing into account.

Commissioner Ward stated that this policy is complementary to their other proposal, “CalRecycle Outreach to Prevent Contamination to Reduce Waste”, to reduce the introduction of contaminants into the recycling stream. He noted that it is hard for any government agency to express concerns or outright bans of products already on the

market. Commissioner Ward stated that materials may have unintended consequences that are passed along and cannot be managed safely.

Commissioner Lapis stated that the update to the proposal is an improvement over last month's version. He suggested clarifying that the proposal covers embedded batteries that are also non-removable (e.g., they are glued in).

Chair Sanborn noted that embedded batteries in greeting cards can be removed with a lot of effort even though they are glued in. She then clarified what the Commissioners were trying to capture in making sure the lines are very clear between products with unnecessary batteries that contaminate recycling, and other products with batteries.

Commissioner Lapis suggested that there are two types of categories. One, inherently disposable goods that should be required to have no battery. And two, durable goods where batteries should be removable and replaceable by consumers.

Chair Sanborn suggested to ban embedded batteries in disposable products. She said that batteries in disposable products are not necessary and if there is an alternative, these should not exist. For example, reusable vaping products are an alternative to disposables. Chair Sanborn made a note to go back and revisit definitions and committed to a review of the proposal regarding batteries with Commissioner Skye.

Commissioner Ward concurred with adding a separate bullet point in the proposal to address the battery issue for single-use products.

Commissioner Skye agreed with Commissioner Lapis to break these into two categories. He noted that both are problematic for different reasons.

Commissioner Oseguera expressed that it is harder and harder to get to where the battery is. He said that while these batteries used to be removable by screwdriver to recycle, now batteries are generally much harder to remove. He stated that redesign is important to ensure removable, recyclable batteries. Commissioner Oseguera appreciated that the proposal is sending a message to the market to think about batteries.

Chair Sanborn stated that secured design may be practical in the case of lithium-ion batteries with a risk of spark and fire if damaged. She said glue is likely in use to prevent movement, and while this practice is good for the user, it is not for end-of-life management of the product.

Commissioner Medrano recommended that the purpose paragraph may need to be broken up. He suggested using "added or included batteries" rather than "embedded". He noted that batteries are a known problem in these products, so we should request that batteries are not included in these products that are contaminating the recycling stream.

Chair Sanborn suggested that if a product has no established stewardship or EPR program and has a battery that is not easily removable or recyclable, it should be banned.

Commissioner Medrano noted the challenge to define easily removable or recyclable, and whether we really need batteries in products that will contaminate the recycling stream.

Chair Sanborn suggested that the existence of these industries may indicate consumer demand to have disposable products with electrical components.

Commissioner Medrano noted that there is also a challenge in using the word “necessary”.

Commissioner Davis clarified the importance of the distinction between products and materials: plenty of products are multi-material, but when are multi-material products recyclable? He noted that this discussion is about the impact of batteries and that we need to take a different track on products and hazardous materials.

Chair Sanborn asked if there should be a whole separate policy on batteries under the Hazardous Waste policy proposal.

Commissioner Davis noted that batteries are hazardous and even when removed, they still have to be properly disposed of. He said it is a battery issue but also a product design issue. He wants to review SB 343, which may be more material-based than products-based. He noted that consumers make selections based on products, and not material.

Chair Sanborn noted that because batteries are considered hazardous, they should be referenced in this policy as hazardous and will therefore be addressed in the Hazardous Waste policy.

Commissioner Davis noted that the current policy is still about recyclability.

Chair Sanborn suggested accepting the changes that were made. She and Commissioner Skye will review the battery section for a third reading focused on the new changes.

Commissioner Skye suggested that if a product makes it easy to separate out batteries, it is okay to recycle separately. This proposal is to focus on the design component of batteries being glued in or inaccessible.

Commissioner Ward noted a focus on lists and materials as the priority. He suggested thinking about the mechanism for training product designers as the main result of this policy. The official channel for this proposal should be through an education framework.

Commissioner Schneider agreed with Commissioner Ward about the need for training but noted that many products are introduced by entrepreneurs and amateurs. She said there needs to be a consideration of how enforcement would occur.

Chair Sanborn noted the need for a group at the back of the system on circular economy and recycling, reviewing new products with feedback on management to manufacturers. She noted a need for the front end of the system to be connected to the back end and a need for the state work to break out of silos.

The third reading will be added to the agenda for next meeting.

Public Comments: None.

Agenda Item 5: Eliminating Toxics and Additives in Plastic Containers Policy Discussion

Commissioners Dell and Donlevy led the second reading of the proposal “Elimination of Toxic-Causing Components and Additives in PET Plastic Bottles in California’s Deposit Container Recycling.”

Commissioner Donlevy reviewed recent edits to the proposal since the last Commission meeting and led edits to the proposal, which is posted on the Commission’s Google Drive. This policy aims to remove toxic plastics from the Beverage Container Program and ensure collected plastics can be safely recycled into new beverage containers. Commissioner Donlevy noted that different polymers and multilayer plastics are often used to increase shelf life in bottles, but may have a toxic effect on consumers, and harmful effects on reclaimers. For example, PET bottles are recyclable in CA, but additives like barrier materials, or other polymers like PLAs and other bioplastics, may be harmful for recycling. Mixed in with recyclable plastics, these materials cause issues for reclaimers. A ban of PVC plastics from the Beverage Container Program is recommended in the proposal, including bottles, lookalike bottles, and labels. Commissioner Donlevy noted that PVC is a health hazard at 50 parts per billion. He said that PVC sinks like PET, melts at same temperature, so it can’t be separated at a reclaimer. Commissioner Donlevy showed an item with a sheet of plastic from a reclaimer sample of PET. He said that brown and black in the sample indicates PVC in the batch, in which case the reclaimer must throw the entire batch away. Any trace of PVC causes the reclaimer to throw out large sections of the process.

Chair Sanborn noted that if the policy wants enforceable changes, this must be clarified as a requirement.

Commissioner Donlevy gave an example of one water bottle company still using PVC labels. He noted that it is very difficult to correctly identify PVC labels as sensors and testers are needed.

Commissioner Dell added that if PVC ends up in PET, the acidity creates benzene in the PET, which is bad for recycling. She collected samples of bottles in stores that are part of the Beverage Container Recycling Program. Using a device, she determined that several imported beverage containers either had a PVC label or a glass component label. She said this must be stopped and one flake of PVC in a bale is enough to contaminate the entire bale and make it unsafe. She recommended that there should be

a requirement that nothing imported have a PVC label. She noted that Association for Plastic Recyclers (APR) guidelines should be a minimum, but the proposal language may need to be stronger. Additionally, she noted that stores need to get involved to ensure they are stocking compliant products.

Commissioner Ward suggested adding a background paragraph on bioplastics. He noted that bioplastics are a small part of the market and is a contaminant in spite of other material benefits. He suggested bringing in an agency such as OEHHA to assist on identifying toxic components and additives to ban, and to prevent conflating toxicity with recyclability.

Chair Sanborn asked why the proposal was limited to the Bottle Bill.

Commissioner Donlevy noted that this is a first step of focusing on what we are drinking. He said the Bottle Bill funds many California reclaimers and this gets a return on investment for helping reduce the reclaimer's costs.

Chair Sanborn highlighted pretzels in big PVC containers – why should we put food in toxic containers?

Commissioner Dell noted that this proposal identifies a critical need right now and is focused and achievable in the short term. She noted it would be a risk to expand the proposal and include food packaging, making it a bigger proposal that is harder to implement. Once this is successful, it could then be expanded to larger markets. She noted that it also complements Commissioner Skye's policy on Design for Recyclability.

Chair Sanborn agreed that PVC containers should not be covered by the Bottle Bill.

Commissioner Lapis cautioned about removing things from the Bottle Bill because that would be an incentive for manufacturers to use that type of packaging. He noted that currently, if a bottle is unrecyclable, manufacturers have to pay heavily into the program, on top of the deposit and they should be careful not to incentivize worse materials. He agreed with the ban of PVC from all food contact packaging. Commissioner Lapis noted that PLAs and PHAs are interesting and should be a design for recyclability issue, not a toxicity issue so perhaps they should be mentioned in the Design for Recyclability proposal instead. He said that PLA performs similarly to PET from toxicity perspective, and it is also recyclable if infrastructure exists, but the infrastructure does not yet exist. PHA water bottles are also not recyclable yet. Regarding the recommendation to get an agency involved, Commissioner Lapis said that he would like someone else (e.g., OEHHA) to help determine what can't be used because of toxicity. Commissioner Lapis said the problem with advocates opposing specific product types is that they are often chasing after existing problems in the market; with OEHHA involved, they can nip things in the bud before the item even enters the market.

Chair Sanborn asked if Commissioner Lapis wanted to amend the policy for vetting by OEHHA to approve things as safe before entering the food packaging stream.

Commissioner Lapis confirmed. He also suggested that the APR design guidelines be in the Design for Recyclability proposal. The outcome should be the same to avoid design decisions that would make products unrecyclable, but he wants to avoid conflating toxicity with recyclability.

Commissioner Dell suggested renaming the policy to “Design for Recyclability and Safety of Beverage Bottles.”

Chair Sanborn noted that this policy could include OEHA working to keep toxics out of the Bottle Bill program, which could then be expanded to packaging.

Commissioner Dell noted that the intent of the policy is that manufacturers wouldn’t get to sell the product in California if noncompliant (i.e., not recyclable and not safe).

Commissioner Lapis noted his concern that it would set a perverse incentive if the proposal was limited to Bottle Bill containers.

Commissioner Dell clarified that it would be making sure bottles that meet the definitions of what is covered in the Bottle Bill program would not be allowed to be noncompliant with this proposal.

Chair Sanborn noted that meant it could not be sold in California.

Commissioner Lapis asked if the scope of the Bottle Bill program was not based on the packaging but was based on the product itself.

Commissioner Donlevy confirmed and noted that it would mean manufacturers that sell beverages in the Beverage Container Program could not sell a product in a #3 bottle or use a PVC label or other components on packaging under the proposal. He could see it then expanded to additional food containers as a next step, with this proposal having a small focus on contaminants in the Beverage Container Recycling Program.

Commissioner Lapis expressed discomfort about the language on products within the Beverage Container Recycling Program, because manufacturers might use that as a way to switch materials to get out of the program.

Commissioner Donlevy noted that meant they wouldn’t be able to sell in the state at all.

Commissioner Dell provided another example for yogurt drinks, where if it was in a PVC container, it would not be allowed to be sold in California at all, but it would still be considered part of the Bottle Bill.

Commissioner Lapis stated he was on board with that.

Chair Sanborn agreed and said there would be no incentive to change packaging to nonrecyclable material because producers wouldn’t be able to sell it at all.

Commissioner Davis agreed with the statement. He noted that there are beverages outside of the Bottle Bill program, and we shouldn’t narrow the focus to the Bottle Bill

and allow toxic materials for these other beverages. He noted that containers for all beverages should be covered.

Commissioner Donlevy noted that this policy could potentially be combined with the Designing for Recyclability policy proposal.

Commissioner Davis expressed support for the focus on beverage containers as it would cover Bottle Bill containers along with other beverage containers beyond the Bottle Bill.

Chair Sanborn noted that if something is too toxic to be in the Bottle Bill, it is too toxic. She is open to big policies if it makes sense, and if something doesn't belong on the market, the Commission should highlight it and leave to the legislature to decide how to handle the policy change.

Commissioner Donlevy asked if the policy should include eliminating toxics and additives from food packaging.

Chair Sanborn agreed and noted that there could be additional language to explain the importance of removing toxics in the beverage containers and that other products are also impacted. She noted that this issue was also raised in the "Designing for Recyclability" proposal which aligned with the U.S. Plastic Pact's Problematic List to forbid products by 2025 across the board.

Commissioner Dell suggested combining proposals.

Chair Sanborn noted that she and Commissioner Skye would explore how the two proposals could be combined and consult with Commissioners Dell and Donlevy.

Commissioner Donlevy noted that this was intended to be a more focused proposal, but that he is willing to discuss with Commissioner Skye about a higher-level policy.

Commissioner Ward acknowledged the Commission's expertise on packaging and the Bottle Bill. He welcomed language that highlighted that expertise, but also supported broadening the discussion to prevent toxic packaging or packaging that interferes with recyclability.

Chair Sanborn noted the need for truth in labeling for good consumer choices.

Commissioners Donlevy and Skye will collaborate on combined or complementary proposals and present updates at the next meeting.

Public Comments (see Appendix I for full comment):

- Gwynn MacKellan, *No organization listed*

Agenda Item 6: Household Hazardous Waste Discussion

Commissioner Ward led the discussion on additions to the "Extending Producer Responsibilities Framework for Household Hazardous Waste" policy proposal. This

proposal was adopted in 2020, but the revisions are to address issues raised a couple of months ago, on packages that previously contained hazardous waste, including pesticide and herbicides. Commissioner Ward noted that these hazardous wastes interfere with recyclability streams.

Based on Commissioner discussion, the proposal was updated to include requirements for labeling and/or changing the colors of containers and to suggest ways to identify when a product container is empty.

Chair Sanborn stated that based on the chasing arrows discussion about hazardous chemicals, there is a risk of recycling these containers into beverage containers or other food grade packaging.

Commissioner Lapis asked for clarification on whether LED lamps can in fact be thrown into the trash.

Chair Sanborn clarified that LEDs are not toxic, but the container in which the LED is housed may have copper or other contaminants. She noted that the container may need to be considered hazardous waste, but this may change over time.

Chair Sanborn pointed out the PaintCare program, and that there is now broader discussion of adding aerosol cans into that program.

Chair Sanborn recommended an EPR program for solar panels. She said that, so far, there is no program for solar panels. Solar panels have been declassified to a universal waste. Household hazardous wastes should have EPR programs, and solar panels are distinct. The Commission discussed adding solar panels and battery walls to their policy proposal.

Commissioner Lapis asked whether this only included solar panels for all products larger than a laptop computer.

Chair Sanborn clarified that the EPR section of this policy proposal is meant to address standalone photovoltaic systems at the residential scale, and suggested that the policy include two new products (photovoltaic cells, battery walls), and the wording will be clarified later.

Commissioner Ward will review with Chair Sanborn and present this policy back to the group.

Chair Sanborn also called out single-use disposable vaping products. For these, the batteries go into the trash currently, and there is no takeback program.

Commissioner Lapis proposed that the policy recommend eliminating single-use disposable vaping products altogether, rather than adding a takeback program.

Chair Sanborn agreed that the sale of these products is unnecessary and costly.

Commissioner Schneider asked why the solar panel section is based on size. She noted that there are also disposal issues for small solar panels for lights and other small products with no known pathway at end-of-life.

Public Comments: None.

Agenda Item 7: Plastic Waste Exports Data Presentation & Discussion

Commissioner Dell presented on the export of plastic waste with the latest data from 2021, with her presentation available on the Google Drive. She noted that California is still the largest plastic exporter in the nation to non-OECD countries and to Mexico. She recommended that if a product is not recyclable in the US, it should be classified as waste.

Commissioner Dell noted that there is a false argument of responsible recyclers in other countries. However, she said that plastic waste export from wealthy nations discourages countries from collecting their own waste, and negatively impacts the local market for recycling and collection systems.

Commissioner Dell also highlighted a recent study from Vietnam which studied the harm of microplastic pollution from mechanical recycling. She noted that NGOs are calling for plastic waste exports to stop and that California is breaking the laws of receiving countries when exporting plastic waste as no MRF bales meet the contamination limits.

Public Comments: None.

Agenda Item 8: Discussion of Basel Convention Update

Jim Puckett from Basel Action Network presented on illegal plastic exports and gave an update on the Basel Convention Plastic Amendments, which can be found on the Google Drive.

Jim Puckett stated that the Basel Convention has been ratified by 189 nations, but not by the United States. Amendments were adopted in 2019 for the plastic waste crisis, which ensure control and transparency for plastic waste that is likely not properly recycled.

Jim Puckett noted that these wastes include plastic waste mixtures, contaminated plastic wastes, halogenated polymers, and wastes for incineration. Jim Puckett gave an overview of the Basel Convention and the Plastic Amendments, including information on prior informed consent, the repercussion of the U.S. being a non-party to the Convention (one of only eight United Nations countries to be a non-party), and how contamination is defined. He noted that the definition of contamination uses strong legal language signifying "*de minimus*", beyond that it is interpretable locally.

Jim Puckett noted that in reviewing US Exports/Legality of trade in Annex II Plastics, only 8 nations (non-Basel parties and Canada) can legally accept imported plastic waste from the US.

He presented a flow chart from 2021 showing that approximately 369 million kg of plastics from the US are illegally exported. He said that PVC is illegally exported from the US, with at least 19 billion kg exported in 2021.

Commissioner Dell noted that most of the PVC exports (over 50%) from the United States originate from California.

Chair Sanborn asked if this underscored the need for removal of PVC in packaging.

Commissioner Dell expected that this is scrap from PVC manufacturing, not from MRFs.

Jim Puckett noted that California laws, policies, and practices put plastic waste trade partners at criminal risk. He noted that the Commerce Clause of the U.S. Constitution specifies that states cannot ban trade outright, but there are possible policy interventions for states, including: (1) A call for ratification of the Basel Convention by the Federal Government; (2) Adoption of policies against allowing exports that will violate the laws of importing Basel Party nations; (3) A demand for transparency from municipalities and haulers in contracts to verify transparency by mandating consent to use GPS tracking, and stop collecting plastics for recycling if there is no domestic market; and (4) Strict penalties for violators.

Commissioner Ward asked about transparency and said it is difficult to get information about where materials go once they exit a port: How might municipalities ask for that information?

Jim Puckett stated that the importer is listed on the bills of lading and you can see where it goes. He said that GPS trackers can be used to track waste movement, to determine who is receiving the waste. He noted that the Basel Convention relies on proof of “environmentally sound management,” but you can’t know whether environmentally sound management occurred unless you know who the receiving facility is. He suggested that there could be a mechanism where it is mandated that haulers provide that information.

Commissioner Davis asked about domestic capacity. If PET bottles were domestically processed into flake or pellets, would those be subject to limitations on export, or is this focused on raw material of bottles?

Jim Puckett stated that if you clean it up to the point of no minimal contamination and it is single-polymer (or allowed mix of PP, PPE, PET), non-halogenated, and it was going to mechanical recycling, then it would be non-controlled under the Basel Convention, thus okay to export.

Commissioner Davis stated that export of paper pulp can supply international markets without shipping raw material, such as paper bales of mixed paper or cardboard that

may have contaminants. A grade of recycled PET pellet that meets market conditions could be legal. This would help to drive domestic market development.

Jim Puckett stated that with the new rules, the Basel Convention could be ratified by the United States. But even without ratification, the Basel Convention is having an impact since it is criminal trafficking of wastes. The United States and other countries will have to handle recycling material domestically. He noted that they found that paper bale contents are contaminated with plastic, up to 10-15% which creates a huge problem in Indonesia and other countries. He also noted there is concern that this waste may just be burned in the receiving countries.

Commissioner Davis asked whether virgin paper pulp is limited by the Basel Convention.

Jim Puckett said that the Basel Convention only places limits on waste such as paper bales, not on virgin materials. Clean materials are acceptable.

Commissioner Davis noted that this is distinct from the UN initiative on plastic production.

Jim Puckett stated that a treaty is coming down on the whole life cycle of plastics soon, to integrate with the Basel Convention and that many NGOs and countries are involved. He noted that bans on single-use plastics are likely and negotiations are starting and expected to take about 3 years.

Commissioner Ward noted that spills of containers full of nurdles (pre-production plastics) are of concern. Will the treaty address those concerns?

Jim Puckett noted that the International Maritime Organization (IMO) has treaties over dumping at sea, and incidental waste coming from ships. The IMO would likely claim competency over the issue of dumping at sea this year. As such, the policy claim for these issues is outside the purview of the Basel Convention. The larger treaty could push the IMO to do something, and similarly the IMO could push the Basel Convention to be stricter on trade.

Commissioner Lapis asked for background on the OECD Countries which had adopted the Basel amendment, and how the United States challenged this amendment.

Jim Puckett noted that the United States is a non-party to the Basel Convention. Jim Pucket noted that a United States bilateral agreement was created with Canada, however this agreement is likely illegal, since it is less environmentally sound than the Basel Convention. Canada is now the only legal export for United States waste, and all other export to OECD is banned, including to Latin American countries.

Commissioner Lapis asked how the United States-Mexico-Canada Agreement (USMCA) interacts with the Basel Convention.

Jim Puckett stated that USMCA is subservient to Basel on this issue area. According to Jim Puckett, there are no waste agreements within USMCA. Additional agreements under Basel may include trade with non-parties such as the United States, but only if they reach equivalent levels of control. As such, he noted that the United States-Canada agreement under Basel is likely illegal. He noted that there is no Basel enforcement for illegal activity, only reporting and that international law is governed by the integrity of the states upholding it. He stated that the US is out of line and needs more diligent enforcement by the receiving countries.

Commissioner Donlevy noted the flow of material to Mexico, and an increase in curbside PET that cannot be processed in California. He asked if there is any enforcement on this?

Commissioner Dell confirmed that there is no enforcement.

Commissioner Donlevy noted that many major brands have reclamation facilities in Mexico.

Commissioner Dell asked, if there is domestic demand for food-grade PET, why is it exported to Mexico? She noted that there are six major recyclers of food-grade PET in California.

Commissioner Donlevy noted that California facilities are mainly set to handle A-grade material from redemption centers, not curbside. Only one facility in California is able to accept curbside material.

Commissioner Dell stated that it is an issue that we are sending contaminated bales to Mexico and keeping clean deposit-grade materials in the US.

Commissioner Donlevy asked if PET bales are mixed with bottles and thermoforms, is that the same material type for export.

Jim Puckett stated that the clean PET would probably pass for export.

Commissioner Dell stated that even if combining PET thermoforms with PET bottles, there is well over 5% contamination in MRF-generated bales.

Jim Puckett clarified that if trade is between 2 Basel parties, they assess the residues coming out of facilities. He said that if the residues can't be recycled, that is contamination and not environmentally sound. He noted that the US is a non-party, so it won't receive scrutiny unless Mexico enforces.

Commissioner Donlevy noted that the issue of non-recyclable contaminated residues was previously highlighted in the presentation from Patty Moore of PRCC, on sorting of curbside PET bales and contamination.

Commissioner Dell summarized that exporting plastic waste is not responsible, probably not legal, and probably a practice we should end. She said that all municipalities accepting materials without plastic processors in California, or the US are accepting

waste that will go to landfill or export. She believes this is not acceptable, and California must stop the export of plastic waste.

Commissioner Ward highlighted that this is a production issue with non-recyclable products pushed onto the market. Discard managers are given the challenge to recover materials and remove contaminants. He also noted that public confusion leads to the contamination.

Commissioner Toyoda recommended considering a new policy to stop plastic exports, at least for the state of California. She said international law is complex and is a production issue but can be highlighted for California. She noted that CalRecycle is expanding education, encouraging more into the recyclables bin, but in addition the Commissioners need a policy proposal about export.

Commissioner Ward suggested Commissioner Toyoda look at the "Controls on Plastic Waste Exports" proposal with Commissioner Dell to update it with information about the upcoming UN study and full life cycle of plastics.

The Commission took a five-minute break from 11:00 – 11:05 am.

Public Comments: None.

Agenda Item 9: Policy Discussions and July 2022 Report Contents & Format

Commissioner Toyoda led a first reading of the "Monitoring and Science Requirements for a Circular Economy" policy proposal.

Commissioner Toyoda discussed the issue topic of microplastics in compost and noted a need to fill the gap of monitoring to understand new chemicals coming into a circular economy. The proposal addresses how to manage on a broad scale, beyond one chemical or problem at a time. The recommendation is that under the CalEPA umbrella, there needs to be collaboration between DPR and DTSC to address this issue.

Commissioner Toyoda noted that this work demands monitored, peer-reviewed science from neutral organizations and that study completion and funding must occur in a timely manner.

For clarification, Commissioner Ward asked if oranges imported with no packaging would still be subject to this proposal.

Commissioner Toyoda responded that initially, yes, all products, regardless of packaging would be included. She noted that future carveouts could be made for small businesses or other reasons.

Commissioner Ward asked, how is this proposal related to the previously unsuccessful efforts to move green chemistry through the legislature?

Commissioner Lapis clarified that green chemistry is a bill that passed 16-17 years ago, creating the Safer Consumer Products (SCP) under DTSC. This proposal overlaps with the existing program, but does have cross-agency work beyond DTSC.

Commissioner Toyoda noted that green chemistry varies by state agency.

Commissioner Ward asked about stormwater effects.

Commissioner Toyoda stated that prevention of pesticide contamination in stormwater is difficult. DPR works with producers on this issue area. Education at municipalities is a downstream point of control, and less effective than changes at the producer level. Water quality improvement by water boards, etc. requires collaboration with DPR. Following collaboration across the issues areas of water/ pesticides/ toxics/ cancer-causing, etc., funding could be granted.

Commissioner Ward noted that if someone is shipping organic produce with no chemicals of concern, and it is not packaged, they should be exempt from the need to pay into this system.

Commissioner Toyoda was open to an exemption but noted that the intent is an incentive to change products or packaging. The circular economy is vulnerable without change.

Commissioner Toyoda led the first reading of the "Advanced Monitoring for Compost" Policy Proposal. The purpose of the proposal is to protect the intent of SB 1383 by safeguarding the quality of the compost expected to be created and distributed to meet SB 1383 goals.

Commissioner Toyoda noted that Title 14 concerns compost monitoring and that compost is monitored for plastic pieces 4mm or larger. However, she noted there is concern over microplastics (5mm or lower) with no standardized commercial method for lab monitoring of microplastics. In testing for microplastics, she noted there is a need to adopt standards. The proposal calls to update the physical contamination list to test for microplastics. Producers that are selling into this state, utilizing plastic packaging of food items, would ultimately pay for this monitoring program. She noted that by the precautionary principle, this policy must be ahead of the problem if there is one.

Commissioner Kalpakoff noted the proposal's focus on identifying the trigger for microplastics in compost. He noted that SB 1383 allows for plastic in feedstock while any organic certified compost facility does not accept plastics in feedstocks, therefore the disconnect becomes a challenge. He noted that there is concern over creating a barrier to adding compost facilities in California and the state needs additional facilities. Commissioner Kalpakoff asked how this proposal can be created to not create a new barrier to entry to the market. He also inquired about what happens to compost if it is contaminated. He said these questions will be addressed in the proposal as it is not intended as a policy to burden infrastructure.

Commissioner Lapis asked what would be done with the data collected from monitoring. He noted there could be a feedback loop, such that if microplastics are being found in compost, there may be a change in allowance of plastic bags under SB 1383. He noted it is important to first compare microplastics to background levels as microplastics are globally present. He also noted that there is a risk of demanding that producers pay for the program, as this may be an unnecessary challenge to the proposal (fees require 2/3 vote). He said CalRecycle should fund the research.

Commissioner Toyoda requested that if the Commission removes the payment piece, the policy prioritize data first.

Commissioner Skye noted a focus on compost, with few references to mulch. He noted there is concern over land application and that should be addressed as well.

Commissioner Davis noted the presumption that plastic bags to collect material are the source of microplastic contamination and noted that sampling may be demanded for materials collected with and without plastic bags.

Commissioner Medrano proposed adding digestate from anaerobic digestion facilities to the list of items of potential products that can be land applied. He noted that additional products that could be contaminants include food packaging. He recommended that instead of a Producer Responsibility Organization, these products should not be sold in the California food industry.

Commissioner Schneider asked where street sweepings, storm drain, and litter catch basin materials go; are these added into composting operations or sent to landfill? These are a potential source of plastics, microplastics, and heavy metals.

Commissioner Toyoda stated that these materials end up in landfills and are not composted.

Commissioner Schneider asked about exceptions for cities with huge leaf-falls and suggested checking that cities are not composting those materials.

Commissioner Kalpakoff stated that there are curb pickup leaf programs in Valley cities, which are delivered to composters. He said microplastics are in the waste stream already and asked how adding plastic to feedstock increases microplastics, if at all.

Commissioner Lapis asked about a consensus to recommend that CalRecycle change SB 1383 regulations to prohibit use of non-compostable plastic bags as part of jurisdiction compliance. He noted that processors do not want plastic bags in material and that this should be a separate policy for a future meeting.

Commissioner Kalpakoff noted that for organic certification, processors do measure 5mm and larger contaminants and the processing line pulls out contaminants. He described that at the back end, they remove large debris with decks and screens and once in the waste stream, it is a challenge to get material removed, especially if it is small. He supports prevention of plastic bags in feedstock.

Commissioners Toyoda and Kalpakoff will refine this proposal for a second reading. Commissioner Lapis will work on a plastic bag proposal.

Public Comments: None.

Agenda Item 10: Discussion with CalRecycle on Education & Outreach

Policy Director Zoe Heller gave an update on new additions to the iRecycleSmart campaign that CalRecycle launched less than two months ago. The iRecycleSmart campaign is multi-pronged and includes ongoing development of materials and trainings for local governments to use or build upon the educational tools that CalRecycle has created. The messaging CalRecycle is creating is simple and engaging, while pointing Californians to resources to get more information

One of the exciting recent additions is the new organics webpages on the iRecycleSmart website. The webpages include information on properly sorting organics, but also highlights the importance of food waste prevention in terms of saving money, reducing waste, and reducing their environmental and climate footprint.

The iRecycleSmart website is also provided in both English and Spanish, recognizing the diversity of Californians, as the Commissioners have mentioned on multiple occasions. Additionally, CalRecycle can translate print materials by request.

CalRecycle is actively engaging and supporting jurisdictions to use and adapt messaging and tools for their own use. A “Toolkit” webpage has been added which includes ads, videos, and other tools that jurisdictions can use. On March 9th, CalRecycle hosted its first overview webinar of the campaign for jurisdictions, to familiarize them with the campaign, provide guidelines for jurisdictions using the materials, and to provide information about additional tools that will be available.

CalRecycle welcomed ongoing suggestions for campaign materials or other ideas.

Public Comments: None.

Agenda Item 11: Update on Active Legislation

This agenda item was skipped.

Agenda Item 12: Commission Structure & Management

Commissioner Skye asked CalRecycle for guidance on when the Commissioners should expect to return to in-person meetings, given the emergency order which reduced teleconferencing requirements for meetings during the pandemic.

Commissioner Skye noted that the CRRRA conference is in-person this year on September 8th and could be an opportunity for a Commission presentation. This would be open to the public and there would be opportunity for public and Commissioner

virtual participation if they can't be there in person. Chair Sanborn requested feedback from Commissioners on this.

Commissioners Ward, Kalpakoff, Medrano, Toyoda, Lapis, and others expressed support.

Public Comments: None.

Agenda Item 13: Data Review and Requests

Commissioner Schneider brought up the League of California Cities solid waste meeting and community choice aggregate energy. For composters, she noted there is a question of whether in a few years anaerobic digestion of organics will be disallowed from use of biogas given the move towards electrification. She noted that for anaerobic digestion of organic waste in a city, if this is illegal due to climate laws this will pose a problem for cities. She said if the state phases out all natural-gas vehicles to electric, including garbage trucks, there is a risk of losing the market for biogas to vehicle fuel.

Commissioner Lapis stated that in an ongoing conversation at CARB for many years, there is a desire to move entirely to zero-emission vehicles. He clarified that this shift still allows other uses for biogas, including pipeline injection.

Commissioner Ward asked whether this topic has any overlap with the work of Commissioners Skye and Oseguera.

Commissioner Skye stated that this relates to technology policy moving forward. He will review the updated policy with this consideration in mind. This content is relevant to market development.

Public Comments: None.

Agenda Item 14: Next Meeting and Agenda Items for Future Meetings

There were no Commissioner comments on this agenda item.

Public Comments: None.

Agenda Item 15: Meeting Summary and Closing

Commissioner Ward announced the next meeting for April 6, 2022. The Commission will forego the April 20, 2022 meeting.

The meeting was adjourned at 11:54 am.

Public Comments: None.

Appendix 1: Public Comments

Gail Brice, XT Green (unread from 2/16/22 meeting, read at 3/16/22 meeting)

Hi -- In the report status comments, Chairperson Sanborn quickly mentioned the status regarding Carpet and Flooring. I believe they included "Legislation and Recommendations." Could she please expand on this? With Legislation, is this something passed or in the process or both? Have the "recommendations" been included in the legislation or are there outstanding recommendations regarding carpet and floor that have not been picked up in legislation? Thank you for the clarification. Regards -- Gail Brice

Shirley Freriks, Nevada County Waste NOT (1)

Good morning - i give meetings on plastics in Nevada county and nationwide. People are always surprised to know all that is put in the recycling bin is not really recycled. The response is "Why bother?" I encourage reduction and alternatives. But the big problem is the lack of reprocessing facilities. Are you making progress on getting some all over the state? When? This is crucial to reduction success as you know.

Shirley Freriks, Nevada County Waste NOT (2)

I give programs on Plastics reduction in Nevada County and Nationwide with the Elders Action Network. People are always surprised when they find out that all they put in their recycle bins is not really recycled. The response is "Why bother?" I tell them why we must bother , offer alternatives and explain the importance of clean and dry. The Hangup seems to be lack of reprocessing facilities. I know you were working to get some going here and streamline permitting. What is the status now? This is a critical piece as you know. Thank you for pushing more on this.

Gwynn Mackellen, No organization listed.

I agree with Commissioner Sanborn that PVC food containers should not be allowed to be sold in California; this should extend beyond simply whether they are in the Bottle Bill.