

Statewide Commission on Recycling Markets and Curbside Recycling

Policy Recommendations

Due Jan. 1, 2021, Submitted Dec. 21, 2020

Executive Summary

The Legislature and Governor created California's Statewide Commission on Recycling Markets and Curbside Recycling to provide advice to CalRecycle, the Legislature, and other State or Federal agencies as appropriate regarding the state's ambitious recycling and organics recovery goals from the perspective of professionals working in many aspects of this complicated industry.

In 2019, Governor Newsom signed into law The California Recycling Market Development Act ([AB 1583](#), Eggman, Chapter 690, Statutes of 2019). Public Resources Code Section 42005.5 requires CalRecycle to convene by July 1, 2020, a [Statewide Commission on Recycling Markets and Curbside Recycling](#) consisting of representative of public agencies, private solid waste enterprises, and environmental organizations that have expertise in recycling.

In 2020, Governor Newsom signed into law [AB 2287](#) (Eggman, Chapter 281, Statutes of 2020), which requires the commission to issue preliminary recommendations on or before January 1, 2021, and to issue policy recommendations and identify products that are recyclable or compostable and regularly collected in curbside recycling programs by July 1, 2021. The bill also requires the commission to provide an opportunity for the public to review and provide comment before finalizing a recommendation or identifying a product described above. The bill also authorizes the commission to share the recommendations and identifications with the Legislature or any state or federal agency.

Working by consensus, the proposals that follow are the policy recommendations that we consider most urgent, approved at our last meeting of 2020 on December 18th. We are also tasked with providing a final policy report by July 1, 2021 which is to include the defining of what is recyclable and compostable in a more comprehensive manner.

In this report of preliminary recommendations, the policy proposals focus on actions to:

1. Reduce the risk of fire and other hazards in discarded materials and associated risks to workers and communities,
2. Eliminate some packaging that impedes recycling,
3. Reconfigure recycling market development efforts to improve effectiveness, and
4. Commit to ensure that materials separated for recovery will not be processed in a manner that contradicts the environmental and social intent of recovery efforts.

Some of this work involves reconciling the conflicts between ambitious recovery goals and the realities of markets and permitting processes. The ability to expand in-state organics and recycling infrastructure, capacity and jobs is limited by the time needed to work through regional planning, siting and permitting processes as well as being impacted by economic factors such as the price of energy and the cost of land.

The ability to recover the value of materials separated for composting or recycling depends on removing contaminants resulting in clean organics and recyclables that have markets. We recognize that some of our recommendations - such as ending the exports of plastics in violation of the Basel Convention - will likely result in temporary increases in California's measured disposal. As professionals, we seek to restore the public trust that when items are correctly placed in a recycling or composting bin that those materials are recovered in a legal and responsible manner. This effort includes ending the export of materials that cannot be verified as being recycled, and clarifying what can and cannot be recycled or composted in California. We believe these are essential initial steps if recovery streams are to have markets. We know that end-use markets are essential for recycling and composting systems to work.

We appreciate the opportunity to provide these policy recommendations, and trust that they will prove valuable to the State as we each continue to do our part to improve resource conservation and recovery of discards in ways that are beneficial to the state's economy, all residents, and the environment. We are confident that these policy proposals are ready to enter the policy arena for consideration. We have more proposals being drafted and look forward to finalizing them and providing more context in the final report due July 1, 2021 for the first year of the Commission's work.

Origins

Governor Newsom established the California's Statewide Commission on Recycling Markets and Curbside Recycling by signing the California Recycling Market Development Act (AB 1583, Eggman, Chapter 690, Statutes of 2019) into law. This Act established this appointed commission, comprised of volunteer representatives of public agencies, private solid waste enterprises, and environmental organizations that have expertise in recycling. At the first meeting in June 2020, the commissioners elected officers. The 17 Commissioners are:

Commissioner	Affiliation
Heidi Sanborn, Chair	National Stewardship Action Council
Richard Valle, Vice-Chair	Tri-CED Community Recycling, CEO
John Bouchard	Teamsters 350, Principal Officer
Deborah Cadena	County of Kern, Public Works
John Davis	Mojave Desert and Mountain Recycling Authority
Jan Dell	The Last Beach Cleanup, Founder
Jeff Donlevy	Ming's Recycling, General Manager
Laura Ferrante	Waste Alternatives, Owner
Joseph Kalpakoff	Mid Valley Disposal, CEO
Nick Lapis	Californians Against Waste, Director of Advocacy
Manuel Medrano	City of Chula Vista, Environmental Services Manager
Alex Oseguera	Waste Management, Director of Government Affairs
Eric Potashner	Recology, Senior Director of Strategic Affairs
Ann Schneider	City of Millbrae, Mayor
Coby Skye	Los Angeles County Public Works, Assistant Deputy Director
Sara Toyoda	City of Indio, Environmental Programs Coordinator
Tedd Ward	Del Norte Solid Waste Management Authority, Director

Forward

This Commission has been asked to do what is nearly impossible. Each of us has volunteered to contribute to this effort, but readers should understand the context. Serving without compensation within six months of formation, we have been asked to make recommendations about how California could:

- Build in-state recycling and composting capacity at a pace that is incompatible with the practical realities of permitting processes in California,
- Reach the ambitious and unmet recycling rate of 75% by 2020, considering that CalRecycle reports that the 2019 recycling rate is only 37%, and
- Clarify what is 'recyclable' and 'compostable' though that decision has significant impacts on local programs and businesses with products that either meet or do not meet those definitions.

Though this Commission is advisory, it operates within legal constraints on its communications and process including the Bagley-Keene public meeting laws. Meetings of three or more Commissioners discussing Commission-related topics need to be publicly agendized 10 days in advance of the meeting, and publicly broadcast. Thus, Commissioners needed to be very careful regarding communications outside of public meetings while continuing to work together outside of Commission work as many serve on multiple organizations and regularly work together. Making documents accessible as required of State agencies (AB 454, Section 508) meant timely posting of documents submitted by the public. Those documents worked on by Commissioners were not postable by CalRecycle since most documents do not meet the accessibility standards required by law. Few people reliably draft documents adhering to the minimum font size and color contrast requirements, and we are still learning how to draft documents to that standard as well. To expedite the Commission's work, the Chair established a google document folder through the National Stewardship Action Council (NSAC) on October 19, 2020 and CalRecycle linked from the Commission webpage so all documents could be posted at the pace of the Commission's work.

The intent of creating the Google Drive account was to improve access to these proposals before review by the full Commission. The report is posted and changes are made live and public. Nonetheless, the California Manufacturers & Technology Association made a public records request that all Commissioners provide all records of any communication with anyone about Commission-related topics, with a due date of December 21st, 2020. The broad nature of the request was burdensome to comply with

and took time away from the work of the Commission, but we understand such scrutiny is part of being on a public Commission.

The good news is the tumultuous events of 2020 also created some opportunities. The Covid-19 pandemic demonstrated the practicalities of electronic public meetings, enabling the Commission and its Committees to meet more often with much less travel time, fewer costs they would have to bear on their own, and reduced greenhouse gas (GHG) emissions.

Resolute support from CalRecycle staff made many of these challenges more manageable, such as getting Fair Political Practices Commission (FPPC) approval on Oct. 7th to be exempt from the requirement to file a Form 700 Statement of Economic Interest to the FPPC. CalRecycle was not given staff or funding to support the Commission in the original bill language so they are adding this work to their already full plate. We wanted to make more committees but CalRecycle stated they could not support more than four with hosting the calls, taking the notes, and helping draft the agendas.

During the first few meetings in the summer of 2020, the Recycling Commission adopted a Charter describing internal organization, structure, and governance, adopted a set of Guiding Principles, and reviewed the legal requirements and constraints of public meetings. This report would not have been possible without substantial input from many stakeholders. Details related to the numerous meetings of the Recycling Commission and its Committees are available on the [Cal Recycle Commission webpage](#).

The legislation creating this Commission also assigned us with the following tasks:

1. Recommend policies to help CalRecycle meet the state's policy goals

- i. Not less than 75 percent of solid waste generated be source reduced, recycled, or composted by the year 2020
- ii. The department shall not establish or enforce a diversion rate on a city or county that is greater than the 50 percent diversion rate

2. Recommend policies to help CalRecycle meet the market development goals:

- i. Increase market demand for post-consumer waste materials
- ii. Increase demand for recycled content products
- iii. Promote systems that yield high quality feedstocks

iv. Promote competitive collection and use of secondary waste materials

3. Recommend policies to help CalRecycle meet the methane emission reduction goals to reduce organics disposed in landfills, including:

i. 50 percent reduction in disposed organics from 2014 levels by 2020

ii. 75 percent reduction in disposed organics from 2014 levels by 2025

4. Identify products that are recyclable or compostable, and regularly collected in curbside recycling programs.

5. Provide regular feedback to CalRecycle on public messaging designed to encourage proper recycling and minimize contamination in curbside recycling programs.

From the outset, we knew addressing these complicated issues would take time. After our final meeting December 18, 2020, we will have held 13 full commission meetings of four hours each, and 31 noticed committee meetings and multiple two person meetings to develop ideas to bring to the committees and Commission and write the report. In short, we have volunteered well over 1,200 hours of our time to help our great State of California achieve the statewide goals established for waste reduction and recycling. We have given as much as anyone could have asked of a volunteer Commission and hope that our investment in drafting these policy proposals for consideration is met with the same enthusiasm with which we offer them.

First, Let's Stop the Fires!

Context

In October 2019, a trash truck caught fire in the foothills of the San Bernardino Mountains. When the driver dumped the truck in a vacant lot, winds spread the fire quickly to the surrounding hillsides, soon encompassing 500 acres. [Within minutes the fire had spread to a mobile home community, leading to one death](#) and the [destruction of dozens of homes, burning over 1,000 acres](#). Though the source of the fires is under investigation, this Commission believes that action is required to reduce known sources of fires including Lithium-ion batteries and small propane containers.

Additionally, the [South Bayside Waste Management Authority \(SBWMA\) had a 4-alarm fire](#) at their Recycling Processing Center which processes 80,000 tons per year (tpy) in San Carlos, California. SBWMA believes the fire was directly caused by an almost expired Lithium-Ion battery. This incident resulted in over \$8.5M in damages. This vital facility was closed for four months, 50+ employees were furloughed, and the building was not fully operational for a year. SBWMA was extremely fortunate that no facility workers or any of the 100 firefighters were injured in this incident. SBWMA and others may not be so fortunate in future incidents.

Additional threats to the SBWMA solid waste program from this incident include a dramatic, five-fold increase in property insurance premiums; a rapidly shrinking pool of insurers willing to write coverage for recycling facilities; and the real possibility of having to self-insure their facilities in the future. SBWMA believes that self-insurance may not be financially feasible.

These are not isolated or rare events and issues. The 2019 Annual Waste & Recycling Facility Fire Report^[1] summarizes “the waste and recycling industry has experienced 348 reported facility fires in the U.S. and Canada. Additionally, we incurred 52 reported injuries and five deaths that can be either directly or indirectly attributed to these fire incidents. Based on reasonable assumptions, we can extrapolate that 1,800-plus facility fires have occurred during that time, which, based on the number of facilities reported by the Environmental Research & Education Foundation (EREF), is more than 40 percent of the industry.” This does not include facility fires that are not reported in the media.

In summary, the disposal of Lithium-Ion batteries in the trash and recycling whether separate or contained within products represents a clear and present safety danger to our industry's frontline workers, as well as an existential threat to the recycling industry's

ability to secure proper insurance coverage for these valuable facilities. No insurance means no facilities, no jobs and no programs resulting in failure to meet our goals.

The Commission believes there is an urgent need for legislation that will swiftly eliminate known explosive and flammable hazards from all discard streams. We all agree that safe collection and processing depends on managing discards that do not ignite or explode, yet the number and diversity of products posing such hazards is increasing rapidly.

Swift legislative action is needed to clearly extend producer responsibilities for end-of-life management for products that are hazardous or have been implicated in causing fires. These first two proposals recommend systematically reducing known fire hazards in discarded materials. Further, we recommend that CalRecycle be authorized to select HHW products for extending producer responsibilities beyond the sale through end-of-life management, a policy approach known as Extended Producer Responsibility (EPR).

[1. Extending Producer Responsibilities Framework for Household Hazardous Waste \(HHW\)](#)

[2. Transition from Single-Use Propane to Refillable](#)

Second, Keep it Clean and Green

Context

In addition to establishing systems to reduce fire hazards in discards, the Commission believes definitive action is required to systematically remove chemical contaminants and products that have proven to be problems for the state's recovery infrastructure and personnel. To compost and recycle correctly, we need to establish systems that continually keep those recovery streams clean and marketable.

Minimizing the amount of contamination in recyclables and organic materials is essential for the successful implementation of diversion programs. Recovery streams can be contaminated in two ways:

- i. Placement of incompatible materials that do not meet specifications for recyclables or organic materials established through state, county and local policies.

- ii. Including materials into recycling programs that do not meet recyclability or compostability requirements.

The Commission recommends that state, county and local jurisdictions include the following elements in their waste management plans to minimize contamination:

- i. Only include verifiably recyclable or compostable materials in recovery collection programs.
- ii. Design processes to identify contamination in recycling streams at the point of collection.
- iii. Establish and implement an effective method to notifying customers regarding the discovery of contamination.
- iv. Provide educational materials for proper usage, and methods to encourage proper sorting for non-contaminated recycling and composting streams.
- v. Establish and implement corrective action policies for repeated incidents of contamination.
- vi. Develop a method to eliminate materials from recycling programs if they do not meet recyclability or compostability standards to be set by the state.
- vii. Hold producers responsible for their role in creating products that have an end-of-life management plan.

A number of the policy recommendations by the Commission aim to properly identify materials and products that meet a real-world standard for being listed as recyclable and/or compostable. By doing so, a portion of the waste stream that cannot meet those standards will be counted as an increase in disposal for California's communities. The Commission recognizes that this policy direction may have significant impacts to the ability of local jurisdictions to meet AB 939 waste diversion mandates, and may have ramifications to the contractual relationship between jurisdictions and service providers. The Commission recommends that CalRecycle develop and provide additional tools to local jurisdictions and service providers to be utilized in franchise/contract negotiations.

The proposals that follow will help reduce contaminating materials and products in our recovery programs.

3. Precautionary Principle

4. Problem Products - Incentives and Disincentives

Getting There from Here: Not less than 75% of Solid Waste Generated be Source Reduced, Recycled, or Composted

Context

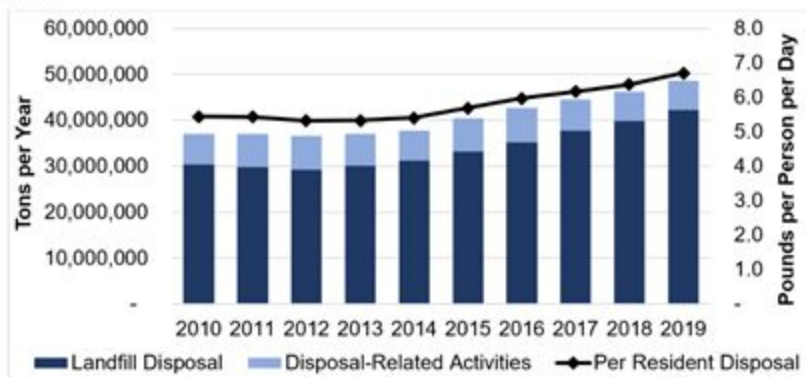
In 2012, the California Legislature declared under AB 341 (Chesbro) that it is the policy goal of the state that not less than 75% of solid waste generated be source reduced, recycled, or composted by the year 2020, and annually thereafter. The graphs that follow demonstrate that while [California's communities have made great strides in recycling in some respects over the years](#), a 75% recovery rate will not be achieved in 2020. In fact, CalRecycle projects California's recovery rate in 2020 to be about half of that, closer to 37%.

The Commission presents this report as our best consensus advice regarding what California should do in the coming months to bring California closer to this ambitious goal.

The following charts demonstrate the challenging trends: since 2013 disposal has been increasing, and the recycling rate (which includes source reduction and composting) is decreasing.

Disposal & Disposal-Related Activities

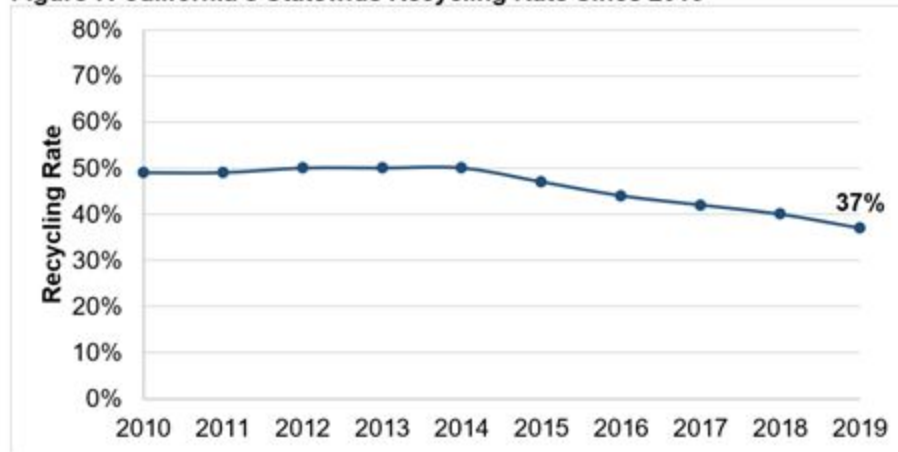
Figure 2. California's Statewide Per Resident and Total Disposal from 2010 to 2019



Source: CalRecycle Public Meeting, December 15th, 2020

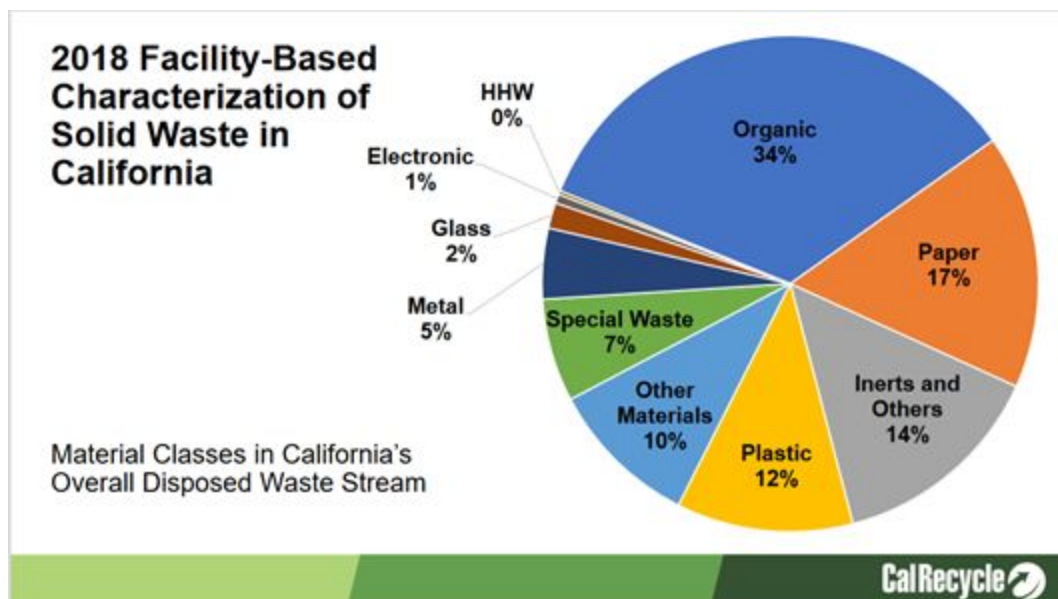
Statewide Recycling Rate

Figure 7. California's Statewide Recycling Rate Since 2010



Source: CalRecycle Public Meeting, December 15th, 2020

The chart that follows shows that a significant portion of those materials being disposed are organic, which during decomposition generate methane, a potent greenhouse gas.



Source: 2018 Facility-Based Waste Characterization of Solid Waste in California

How did we get here? Under the California Integrated Waste Management Act of 1989 (AB939), cities and counties were made responsible for supporting recycling and composting programs that would cut the amount of material disposed in half. Most governments partnered with collection and processing companies and met that goal by expanding residential recycling and yard debris collections. Cities and counties formed joint powers authorities or created new departments or hired contractors to increase recycling and organics recovery. Such community efforts across California dramatically expanded the tonnage of material collected and processed for recycling or composting. While these programs initially reduced disposal tonnages, over time disposal has continued to increase. Neither local nor state funding has been available to sustain recovery programs during even moderate economic hardship.

California's materials recovery and processing infrastructure has been developed in response to legislation, and each new evolution builds on the infrastructure in place at that time. Prior to the Bottle Bill (AB2020, 1986), recycling was initiated by community-based non-profits which often recycled only a few materials, or which combined reuse and recycling operations. When the Bottle Bill was established - in part to reduce roadside litter associated with beverage containers – those nonprofits were often associated with those first buy-back programs.

California has deposits for beverage containers, and funds collected with the purchase of motor oil, some electronic devices, and tires all provide ongoing funding for recovery of those materials respectively.

When AB 939 made local governments responsible for source reduction and recycling programs, local governments and collections contractors increasingly became the community recyclers and household hazardous waste program providers. Multi-material buy-back centers have been gradually replaced by more widespread California Redemption Value (CRV)-focused redemption centers. Currently, curbside collection programs are commonplace and conversely, due to several factors including funding support, the number of bottle-bill buyback centers has fallen by over a third since 2013 - leaving many communities with buy-back deserts at a time when the public needs their deposits back more than ever.

California has required EPR or product stewardship programs for specific products, including paints and stains and architectural coatings, carpet, mercury thermostats, mattresses, sharps and pharmaceuticals. Each program is administered by a different stewardship organization overseen by CalRecycle, under rules defined by the enabling legislation.

California has made efforts to increase demand for recycled products through the State Agencies Buy Recycled Campaign (SABRC) and the Recycled Content Product

Manufacturer's Directory. State procurement guidelines create a natural starting point for determining what is recyclable and compostable and are emulated by local governments in their buy recycled and compost procurement programs and can drive markets if the State votes with their dollars for the products that align with the states goals such as those with high post-consumer content, no toxics, have a producer funded and operated take-back program, etc..

Investing in the State's recycling system will stimulate the economy and provide good green jobs; however, funding is needed to make this happen. The State is facing a recycling crisis, with high rates of contamination of collected recycled materials. This was brought to light following China's aggressive new standards that prohibited the importation of mixed bales of recyclables and set new more stringent contamination limits. In response to these new limits, recycling facilities were pressed to expend more effort to recover a lower volume of clean material that ultimately has a lower commodity value. As a result, recycling operations are struggling to remain viable and more material is being landfilled instead of recycled. This is directly related to the closure of nearly 1,000 recycling centers in California since 2013.

Reducing Short-lived Climate Pollutants (SLCP) is a priority for the State, which led to the establishment of aggressive targets to reduce organic waste disposal and methane emissions generated by organic waste in landfills. However, California lacks enough infrastructure to meet those targets. CalRecycle estimates that the total cost to implement the statewide organic waste regulations established pursuant to SB 1383 [is nearly \\$40 billion over the next decade, including a capital investment of nearly \\$4 billion to develop infrastructure.](#)

Developing local infrastructure and domestic markets for recycled materials benefits the environment and the State's economy and is critical due to the loss of access to foreign markets. Successfully achieving California's ambitious recycling and climate change goals requires partnerships and commitments from the state, local governments, the waste and recycling industry, and recycling and organic waste project developers. Expanding producer responsibility and investments, as well as state support for recovery programs are all needed to create green jobs and a working recovery system.

The Legislative Analyst's Office has consistently reported, most recently in 2016, that funding for recycling and organic waste management is the most cost-effective method for reducing GHG emissions – as low as \$4 per ton of GHG emissions – while having the co-benefits of reducing other air pollutants and short lived climate pollutants, creating green jobs, and bringing other improvements. Despite these findings, funding has remained a complicated and elusive matter. The State has only provided \$140 million in grants and loans to develop organics infrastructure. Billions of dollars are

needed to place the state on a trajectory to meet its aggressive - but critically needed - climate, environmental, quality of life, and health and safety goals.

Recycling should be prioritized to stimulate the economy, create green jobs and provide cost-effective GHG emission-reduction strategies.

Other Proposals

Due to time constraints, the Commission could not complete three policies we thought were of high priority which will be taken up in early January at the Recycling Committee meeting, those being 1) prioritizing refillable bottles in the bottle bill program, 2) label system for products and post-consumer management, and 3) PET thermoforms being collected for recycling which requires changes to the bottle bill CRV payment system.

The Commission received several comments suggesting we explore “chemical recycling technologies.” [CalRecycle staff presented to the Commission on November 4, 2020](#) on conversion technologies and what is considered recycling under the law and informed the Commission that “chemical recycling” has no current definition in the law. The Commission agreed after January 1st 2021 to evaluate specific “chemical recycling technologies” that met the three-part test demonstrating that such operations would qualify as recycling facilities. Under 14 CCR 17402.5, recycling facilities only receive material that has been separated for reuse prior to receipt, that the residual amount of solid waste in the separated for reuse material shall be less than 10% of the amount of separated for reuse material received by weight, and the amount of putrescible wastes in the separated for reuse material shall be less than 1%.

The Commission’s remaining recommendations are presented in sections by the committee that proposed them.

Market Development Recommendations

Context

SB 1066 was enacted in 1997, finding and declaring that:

- Market development is the key to increased, cost-effective recycling. Market development includes activities that strengthen demand by manufacturers and end-use consumers for recyclable materials collected by municipalities, nonprofit organizations, and private entities.

- Developing markets for recyclable materials creates opportunities that will reindustrialize California.

The need to develop those markets is magnified by unpredictable export conditions that disrupted materials flows for California recyclers.

Recycling market development is the interface between private investment and public incentives. State and local initiatives create ongoing supplies of materials for recycling and organics processing, which yields commodity feedstocks for manufacturing and land application. Investment risk reflects the degree to which material supplies are sustained or increased; likely demand for recovered feedstocks; costs to permit, construct and operate compared to alternative locations.

SB 1066 called for a demand-focused comprehensive market development plan, addressing four goals.

The Commission is charged with issuing policy recommendations to achieve the market development goals of Public Resources Code 42005(b). The four market development goals are addressed in the following recommendations.

5. State Agency Buy Recycled Campaign

6. Recycling Market Development Zone Loan Program

7. Consolidated Permit Process Utilization and Enhancement

8. Governor's Office of Business and Economic Development (GO-Biz) Enhanced Role

9. CalRecycle Market Development Focus

10. Controls on Plastic Waste Exports

Regarding the carpet proposal that follows, the Commission understands that CARE has the ability to limit subsidies paid to out of state processors and manufacturers.

CARE may also choose to offer extra incentives to keep materials in state. CARE should structure its incentives to assure that California post-consumer carpet is meeting the needs of California processors. The Commission recommends that CalRecycle, CARE, and the Carpet Stewardship Advisory Committee and other interested parties review and consider those comments in their deliberations. CalRecycle should consider how carpet can be recovered through construction and demolition recovery programs, and how carpet recovery is addressed under the Mandatory Commercial Recycling programs.

11. Carpet Stewardship and Flooring

Waste Prevention

Context

There is no question the bulk of municipal and state integrated waste management resources have been focused on managing discards for recycling, composting or disposal and HHW programs to maximize collection and document diversion of such materials from disposal. Waste prevention programs are rare in part due to challenges in measuring what does not happen and lack of program funding. The tools of discard managers - planning, permitting, facilities, collections, and contractors - are well suited to collecting and managing discarded materials, and those services are relied upon in part to protect public health. Those same discard management tools are less effective for supporting most waste-prevention businesses and activities. Waste prevention is also less frequently pursued in part due to the vast diversity of activities and systems that have waste prevention aspects.

Though waste prevention is the top priority by law and for this Commission, we have been asked to provide specific recommendations on how to improve our discard management system, but not so much about how waste could be prevented. The ambitious goals to manage 75% of organics without landfilling does, however, have some specific organics waste prevention aspects.

Food Waste Prevention

Food waste can occur at any point in the supply chain, from the field to processing, transport, purchase, storage, and rescue. In the case of food and organic materials, waste prevention activities can range from smart shopping reducing over-purchase of foodstuffs, to in-home storage and preparation, gleaning networks that harvest usable produce from orchards and fields, community events, residential and community gardens, to support organizations and facilities to store and redistribute that produce.

Although such programs include collection, storage and processing food materials - for food rescue programs the vehicles, infrastructure and professional networks to operate such programs are entirely unrelated to solid waste, recycling, or composting vehicles and infrastructure. While SB 1383 is driving a statewide interest in expanding food rescue, for the groups and people implementing such programs the value of delivering healthy food to families is undoubtedly a more tangible motivation than the associated reduction in food waste.

Another strategy to reduce food waste generation at the source is to provide outreach and education about methods to reduce food waste, as well as food preservation methods like soups, canning, and pickling. [CalRecycle has assembled a variety of outreach tools](#) to help promote activities that reduce food wastes in many sectors of the economy. The United Kingdom's successful 'Love Food, Hate Waste' program is worthy of study and emulation.

Furthermore, California is a part of the [Pacific Coast Collaborative \(PCC\)](#), committed to supporting businesses that are implementing measures to reduce and prevent wasted food in the region by 50% by the year 2030 as part of the [West Coast Voluntary Agreement to Reduce Wasted Food](#) – a regional public-private partnership of local jurisdictions focused on carbon reduction.

Food Rescue

Food rescue can take place at the front-end of food production, or after food has been prepared. Front-end rescue includes coordinated gleaning at orchards and in backyards, at food processing facilities and dairies, and from grocery stores and bakeries to service groups that prepare, cook and serve food at community functions.

Food rescue programs may also collect finished food items or produce from restaurants, commercial kitchens or bakeries and redistribute those in a tiered fashion. Food rescue hierarchies prioritize diverting food for people, then for animal feed, and only after such composting or other recovery activities.

CalRecycle's [Food Rescue Grants](#) helped start or expand food rescue in several communities, but securing future operational funding is currently a challenge in many communities, though these programs are meeting essential community needs during the COVID-19 pandemic.

12. Food Recovery Policies

On-Site and Community Composting

On-site composting, community composting, or backyard composting outreach programs are among the most common waste prevention programs widely implemented in California. If widely implemented, on-site composting can significantly reduce the amount of organic materials to be collected and processed. Furthermore, the potential for promoting community-wide carbon farming strategies may expand applications of finished compost made in backyards as well as by cities.

CalRecycle has a page describing the basics of home composting at <https://www.calrecycle.ca.gov/organics/homecompost>, and community composting at <https://www.calrecycle.ca.gov/organics/compostmulch/community> but more significant efforts are needed to coordinate the promotion of these activities statewide.

California's decision to reduce methane emissions by managing most food and organics outside of landfills has renewed interest in ways to expand and document the benefits of food waste prevention, food rescue, facilitating the movement of organic materials to animal feed or rendering, backyard composting and carbon farming. As waste prevention strategies, recovery professionals are once again challenged to support these programs as top priorities. Again we note that the solid waste reduction benefits of these practices are minor or incidental to the practitioners, unless such reporting is required.

For California to reach its 75% recovery goal, waste prevention approaches should be expanded to support sustainable and energy-efficient circulation of non-organic products and materials through the economy. The following recommendations could be some initial steps to move waste prevention back from the bottom of the list to the top of the hierarchy.

Waste Prevention Actions Keep Materials in Circulation

Waste prevention can include any appropriate mechanism of managing or reducing discards that does not involve municipal collection or management. Garage sales and even some want ads all help keep useful products in circulation and thereby reduce waste. Many forms of mulching, grass-cycling and other methods to strategically allow materials to decompose safely in place, preventing that organic waste from needing collection. Waste prevention outreach often includes promotion of two-sided copying, reusable dishware. The challenges and the questionable value of municipal monitoring of such dispersed non-municipal activities are self-evident.

To meet the state's 75% recovery goals, the management of most discard materials must be transitioned away from our current levels of reliance on disposal. As waste

prevention is the top strategy for addressing discard materials, then it is incumbent upon us to also examine potential waste prevention strategies for non-organic materials.

[13. Right to Repair Proposal](#)

Recommendations to Improve Recycling

The Commission used the data in the spreadsheet on the google documents titled "[California Recyclability Screening Survey](#)" to determine what is recyclable. We encourage all stakeholders to review the data and inform us of information that may be missing or incorrect as it is the basis for the recommendations.

The Commission wants to emphasize that the closure of buyback centers and the lack of convenient redemption recycling opportunities is an ongoing existential crisis for those centers, requiring the urgent attention of the Administration and Legislature. Allowing the closure of more recycling centers is incompatible with efforts to expand recycling opportunities. **California consumers are being charged redemption fees yet being denied hundreds of millions of dollars in redemption value refunds at a time when they need those funds most to pay for basic necessities like food.**

[14. Beverage Container Recycling, Changes to the Bottle Bill and Support CalRecycle AB 54 Report](#)

[15. What is Recyclable?](#)

[16. Design for Recyclability: Plastic Container Labels and Shrink Sleeves](#)

[17. Design for Recyclability: Beverage Containers](#)

[18. Label Restriction to Stop Plastic Bag/Film Contamination in Curbside Recycling](#)

Recommendations to Improve Organics Management

[19. Compostable Products Certification and Approval for Composting or Anaerobic Digestion](#)

List of 19 Policies in the Order Discussed in the Report

1. [Extended Producer Responsibility for Household Hazardous Hazardous Wastes](#)
2. [Small Propane Cylinders](#)
3. [Precautionary Principle](#)
4. [Problem Products - Incentives and Disincentives](#)
5. [State Agency Buy Recycled Campaign](#)
6. [Recycling Market Development Zone Enhancements](#)
7. [Consolidated Permit Process Utilization and Enhancement](#)
8. [Governor's Office of Business and Economic Development \(GO-Biz\) Enhanced Role](#)
9. [CalRecycle Market Development Focus](#)
10. [Controls on Plastic Waste Exports](#)
11. [Carpet Stewardship and Flooring](#)
12. [Food Recovery Policies](#)
13. [Right to Repair](#)
14. [Beverage Container Recycling, Changes to the Bottle Bill and Support Cal Recycle AB 54 Report](#)
15. [What Is Recyclable?](#)
16. [Design for Recyclability: Plastic Container Labels and Shrink Sleeves](#)
17. [Design for Recyclability: Beverage Containers](#)
18. [Label Restriction to Stop Plastic Bag/Film Contamination in Curbside Recycling](#)
19. [Compostable Products Certification and Approval for Composting or Anaerobic Digestion](#)

[1] <https://www.waste360.com/safety/december-2019-fire-report-waste-fires-13>

Policy #1: Extending Producer Responsibilities Framework for Household Hazardous Waste (HHW)

Date(s) before full Commission: *December 2, Dec 16*

Primary Author(s): Ward and Sanborn

Adopted: 18 December 2020

Background: Extended Producer Responsibility (EPR) is a policy strategy used widely around the world for HHW and other products to place a shared responsibility for end-of-life product management on the producers, and all entities involved in the product chain, instead of the general public; while encouraging product design changes that minimize a negative impact on human health and the environment at every stage of the product's lifecycle. This allows the costs of treatment and disposal to be incorporated into the total cost of a product. It places primary responsibility on the producer, or brand owner, who makes design and marketing decisions. It also creates a setting for markets to emerge that truly reflect the environmental impacts of a product, and to which producers and consumers respond.

In March of 2008, the California Integrated Waste Management Board adopted an EPR policy framework [Get Document](#) which still applies today.

HHW is both a small proportion of discarded materials and the source of the most significant concerns related to discard management. HHW is illegal to dispose of in the trash. HHW recovery programs generally recover less than a quarter of such material disposed of at great expense. Even so, those programs are largely irrelevant with respect to the state's recovery goals and have been relatively ignored. The largest fraction of HHW remains included in the materials disposed. When improperly placed in recycling or organics recovery streams, HHWs pose chemical and explosive hazards within those streams, significantly increasing the costs of those operations. The costs to manage HHW, including costs for load checking, and the construction and operation of permanent HHW facilities across the state, though a significant continuing expense, is proving inadequate to the task of removing the increasing density and diversity of hazards in materials discarded. Continuing municipal support for the diversity of HHW programs required also takes limited local funds away from other programs such as composting. Municipalities continue HHW programs in part to reduce potential long-term liabilities but have limited resources to fund a program that is sufficiently effective. If a community under-performs in its efforts to remove hazardous materials from materials landfilled, that community becomes more vulnerable to potential future expenses associated with superfund cleanups for such a landfill. Companies selling such products have not shared these municipal expenses or liabilities.

In other words, our current system for managing HHW is both a significant public expense, and also an expensive failure. If we had to grade the HHW system effectiveness, it would be an F-, not because of efforts of those providing HHW services are deficient, but because the current HHW system has proven inadequate to these challenges. To manage discards more safely and efficiently, hazardous and explosive

materials need to be a decreasing and more readily managed proportion of discards. Those are not the current trends.

HHW, while small in volume and still not yet called “diversion” because while some material is trashed, it is illegal to dispose of in the trash, HHW creates a lot of problems including hazards to those in the waste management system when they are improperly disposed in the trash, organics and recycling, and very high costs to manage properly. The cost to manage HHW takes limited local funds away from other programs such as composting.

EPR is used widely and successfully for HHW in British Columbia Canada and in many other provinces and countries for products including anti-freeze, batteries, fluorescent oil, paint, pesticides, electronics and more.

California implemented the paint stewardship law in 2010 and ten years later, it is working very well. Paint is being reused first, then recycled and only disposed of when it has no higher and better use and it's saving local governments millions of dollars they previously spent managing just paint. We believe it is in the best interests of California to move as quickly as possible toward EPR for all HHW to ensure all HHW is fully funded for proper management that is convenient and safe while preserving limited local funds for other mandated diversion programs.

CalRecycle just completed another HHW grant cycle which was wildly underfunded and only 15 of 33 grants were funded. The government will never have enough money to fund these programs, therefore, we need the producers who profit to provide the funding and management of these systems.

There is an urgent need to reduce the fire risks posed by HHW in light of the extended duration and increasing severity of California's fire season. In October 2019, a trash truck caught fire in the foothills of the San Bernardino Mountains. When the driver unloaded the truck to try to extinguish the flames, winds spread the fire quickly to the surrounding hillsides, soon encompassing 500 acres. Within minutes the fire had spread to a mobile home community, leading to the deaths of two people and the destruction of dozens of homes, burning over 1,000 acres. Though the source of the fires is under investigation, this Commission believes that action is required to reduce known sources of fires including Lithium-ion batteries.

Additionally, the South Bayside Waste Management Authority had a 4-alarm fire at their Recycling Processing Center (80,000 tpy) in San Carlos, California which they believe was directly caused by an (almost) expired Lithium-Ion battery. This incident resulted in over \$8.5M in damages. This vital facility was closed for four months, 50+ employees were furloughed, and the building was not fully operational for a year. They were extremely fortunate to report that no facility workers or any of the 100 firefighters were injured in this incident. They may not be so fortunate in future incidents.

Additional threats to their solid waste program from this incident include a dramatic, five-fold increase in property insurance premiums; a rapidly shrinking pool of insurers

willing to write coverage for recycling facilities; and the real possibility of having to self-insure their facilities in the future. This agency believes that self-insurance may not be financially feasible.

In summary, the disposal of Lithium-Ion batteries in the trash and recycling whether separate or in products represents a clear and present safety danger to our industry's frontline workers, as well as an existential threat to the recycling industry's ability to secure proper insurance coverage for these valuable facilities. No insurance means no facilities, no jobs and no programs.

Lithium-ion batteries and their increasing diversity of uses are one of the most significant increasing fire hazards for discard management and processing operations. For some facilities, several fires can be directly traced back to such batteries. From either a public safety, a fire control or an insurance cost-control perspective, getting batteries that pose flammable and explosive hazards out of the discard stream is an urgent priority.

Other products that currently pose significant risk of fires when discarded include marine flares and small propane containers.

Purpose(s): The purposes of this initiative are:

- **To eliminate the mismanagement of hazardous home-generated waste (HHW)**
- **Ensure HHW management is fully funded**
- **To reduce the costs to local and state government for management HHW**
- **Reduce the hazard to the waste management workers when they are disposed of improperly**
- **To ensure producers pay for externalized costs and hopefully rethink chemistries of hazardous materials to reduce their toxicity and thereby reduce the cost to manage**

Would this policy proposal require legislation, or interaction with an agency other than CalRecycle? Yes.

Possible 2021 Legislative Priority? Yes.

Does this proposal require additional funding or changes to resource allocation?

Yes. The EPR programs should pay for state oversight and reimburse local governments for any management of their product and the use of the facilities.

Proposal(s): That the state legislature pass an EPR Framework bill delegating to either CalEPA, CalRecycle and/or DTSC the authority to develop criteria and identify toxic products each year to be transitioned to EPR programs until such a time that no toxic or hazardous products are costing local governments money to manage. The authority to

establish EPR programs and begin removing hazardous products from municipal management would begin in 2022.

As an urgent measure to reduce fire hazards, legislation should also be passed in 2021 to establish an extended producer responsibility program for all batteries, with particular emphasis on reducing fire and explosive hazards at all stages of distribution and recovery, and establishing a robust identification system to facilitate separation of post-consumer batteries by chemistry.

The EPR program developed for batteries and subsequently identified products or categories of products will address goals, guiding principles, definitions, roles and responsibilities, governance, products or the product categories included, and how the program's effectiveness will be measured, reported or improved over time. We urge the oversight agency to ensure that products selected for EPR programs are prioritized by immediate impacts to safety and cost in the industry so 1lb propane gas cylinders is one which has a separate proposal due to its not pure EPR approach and we urge that marine flares are prioritized for out years due to the total lack of infrastructure to accept them and the extremely high cost to manage.

Related Issues: California already has several product-specific programs that utilize EPR policy including:

- **Mercury Thermostats:** (internalized costs) The [Mercury Thermostat Collection Act of 2008](#) provides for producer responsibility of mercury thermostats. The Department of Toxic Substances Control is the lead department for implementing this law.
- **Pesticide Containers:** (internalized costs) [Food and Agricultural Code Section 12841.4](#), covering [pesticide container recycling](#), requires first sellers using certain pesticide containers to demonstrate participation in a certified high-density polyethylene (HDPE) pesticide container recycling program and annually submit certifying documents to the director of the Department of Pesticide Regulation.
- **Paint:** The [Paint Stewardship Program](#) ensures that leftover paint is properly managed in a manner that is sustainably funded.
- **Carpet:** The [Carpet Stewardship Program](#) ensures that discarded carpet becomes a resource for new products.
- **Mattresses:** The [Mattress Stewardship Program](#) aims to reduce illegal dumping, increase recycling, and substantially reduce local government costs for the end-of-use management of used mattresses.
- **Pharmaceuticals and Sharps:** (internalized costs) The [Pharmaceutical and Sharps Waste Stewardship Program](#) requires safe and convenient disposal options for pharmaceutical drug and home-generated sharps waste.

Policy #2: Transition from Single-Use Propane Cylinders to Refillable

Date(s) before full Commission: December 2 and 16

Adopted: 18 December 2020

Primary Author(s): Ward and Sanborn

Background: Single-use 1 lb. propane cylinders are a threat to human and environmental health. When “empty,” single-use cylinders often still contain a small amount of gas, posing a danger to sanitation workers due to risk of explosion and resulting fires. Because of the high hazard level, this waste stream is very costly to manage and dispose of properly. Ironically, 80% of the purchase price is for the single-use packaging, the steel cylinder, which is the main culprit of the disposal issue.

Every year in North America, 40 million single-use 1 lb. propane cylinders are used, with an estimated of **over four million in California alone***. Because of limited disposal options, the empty cylinders are often disposed of improperly in landfills, dumpsters, household trash or recycling bins, campsites, on the roadside or in recycling containers and can cause explosions. A MRF in [Grand Rapids Michigan in 2017](#) had an explosion that was proven to be caused by three of these 1 lb gas cylinders.

Made of hot rolled steel, these cylinders have very high GHG impacts with an estimated 11 million lbs of GHG emissions avoided if CA moved to refillables only. All other sizes of propane cylinders have been made refillable for decades including BBQ size 5 gallon and the 20-gallon size used on forklifts. The public is trained to refill BBQ tanks and can do the same with 1lbs in California, but when the cost of the 1lb has been externalized onto local governments via HHW programs when the refillables now exist and are sold and refilled in California, we believe the sale of disposables should be banned in short order. The propane cylinder is 80% of the cost of the product- the gas costs approximately 25 cents. Costs to dispose in California range from \$2 - \$40 each.

The [ReFuel Your Fun \(RFYF\)](#) campaign was developed by the California Product Stewardship Council in 2015 using CalRecycle HHW grants to transition communities to choose reusable cylinders over their single-use counterparts. The campaign works to educate the public about the advantages of using reusable 1 lb. propane cylinders as compared to the disadvantages of the single-use cylinders noted earlier. This is accomplished through a variety of methods including conducting outreach/exchange events to get more reusables into circulation. CPSC through its RFYF campaign utilizing HHW grants has worked with dozens of local jurisdictions throughout the state to implement the campaign which has led to U-Haul selling and refilling 1lb propane gas cylinders statewide at every store that has propane. The map of all the locations already selling and refilling is [here](#).

Purpose(s): This proposal would be to:

- Protect curbside programs from fires in trucks and at MRFs

- Increase safety of the workers in the discard system
- Reduce waste from single use propane cylinders of 1lb size
- Expand locations to refill and properly manage cylinders
- Expand education about refillables
- Save HHW programs money – cylinders can be very expensive to recycle
- Encourage more manufacturers to stop making single use cylinders and instead manufacture refillables and develop the sales and marketing program to educate the public about them

Would this policy proposal require legislation, or interaction with an agency other than CalRecycle? Yes, legislation would be required to provide the regulatory mechanisms needed to implement the proposal. This would include, but not be limited to, DTSC and CalRecycle.

Possible 2021 Legislative Priority? Yes. The sooner the cut-off date for sales of such single-use propane containers is set, the faster the concerns about safe disposal and GHG impacts will be addressed. Due to the unexpected costs resulting from COVID-19, local jurisdictions are increasingly unable to bear the cost burdens associated with repairing and rebuilding waste management facilities damaged due to single-use cylinders. Due to these factors, we recommend making this a 2020 legislative priority.

Does this proposal require additional funding or changes to resource allocation? The costs to oversee an EPR program, if needed, would be paid for by the producers of the single-use cylinders.

Proposal(s):

- Establish an EPR system by Jan.1 2024 for disposable 1lb propane gas cylinders that are sold in CA (and are not legally refillable) by Jan 1 2023. Single-use 1lb gas cylinders must be labelled as to where the public can find refillables for sale and refilling.
- Refillable 1lb gas cylinders on the market before Jan. 1 2023 are exempt from the overall EPR program but must be labeled as to where cylinders can be refilled or properly discarded at end of life.

Related Issues:

Dangers in the Waste Stream

https://www.mlive.com/news/grand-rapids/2017/06/propane_tanks_cause_explosion.html



- Above: 2017 fire started by three 1 lb. propane cylinders at MRF in Kent County, MI
- Another explosion at facility in 2016 caused by one 1 lb. propane cylinder **cost \$90K!**
- **Risks including injuries/death, facility damage, loss of insurance coverage**

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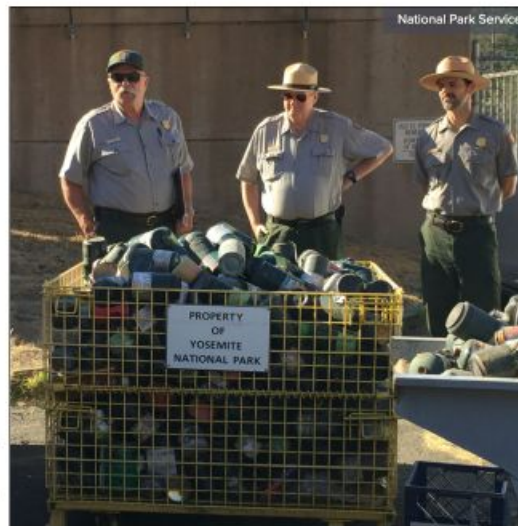


NATIONAL STEWARDSHIP ACTION COUNCIL

Yosemite National Park

*"Between fuel and the staff we pay, it's **at least \$3 a piece to dispose of them,**" says Jodi Bailey, program manager for the Zero Landfill Initiative at Yosemite National Park. "We have seven drivers and 42 people emptying small trash cans, and **it's a seven-day-a-week operation.** These are challenging times for federal land management agencies, and **we'd rather spend that money providing better services to our visitors.**"*

Propane Tanks Wreak Havoc at MRFs and Disposal Sites, Waste 360, 5/23/19



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NATIONAL STEWARDSHIP ACTION COUNCIL

Greenhouse Gas Emissions Reductions



- 73 million lbs. of GHG emissions from production of an estimated 36.7 million lbs. of steel prevented over a **10-year lifespan** of a typical reusable
- 11 million lbs. of GHG emissions could be prevented from adopting 1lb. reusables in CA (propane emissions)
- Total: 84 million lbs. over product lifespan



Calculations by: U-Haul's Chief Sustainability Scientist Allan Yang, Ph.D. & MBA



© copyright National Stewardship Action Council, 2020

U-Haul Launch



- 135+ locations in CA with propane
- Plans to expand strategically nationwide – must have local commitment for promotion
- Selling and refilling



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Industrial Environmental Association's 2016 Environmental Excellence Award



Award video: <https://www.youtube.com/watch?v=rxQTV-YbU80>



Pictured L to R:

Sam Newman, Flame King; Jordan Wells & Heidi Sanborn, CPSC; Kevin Scofield, U-Haul

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RFYF in the U.S.



ACE Hardware

True Value.

REI CO-OP

Kamps PROPANE

LAVA PROPANE

KOA

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Policy #3: Precautionary Principle

Committee: Organics

Adopted: 18 December 2020

Purpose: The purpose of this policy recommendation is to protect the viability, integrity, and resilience of composting and recycling systems from potential harm that may be introduced by foodservice ware and food-contact packaging containing harmful additives or ingredients that persist through the recycling and composting process.

This policy will do four things:

- (1) Identify additives or ingredients that would preclude an item from being labeled recyclable or compostable, or to be included on the list of eligible products produced pursuant to SB 1335.
 - a. Producers must provide a list of all additives and ingredients to CalRecycle for consideration and review for any products seeking certification.
- (2) Establish a process to review potential toxic ingredients that might adversely affect end-of-life management of any food service ware or food-contact packaging item or other product, prior to the product entering the stream of commerce in California.
- (3) Establish a process for communicating the adverse impacts of improperly using such incompatible materials in a product or package in California.
- (4) Products that have already entered the stream of commerce using such incompatible materials may be subject to the same controls and may be phased out in a timely manner to protect the same viability, integrity and resilience of the same systems.

Proposals:

- (1) CalRecycle should require that a food service packaging item that is listed as either recyclable or compostable pursuant to SB 1335 shall not contain any compounds determined to cause unacceptable harm, consistent with the Precautionary Principle.
- (2) CalRecycle should exercise its authority under 42357 (C) to issue guidelines identifying that materials that contain the items list in (1) are designed in a manner that would be considered misleading to consumers if they were to be labeled “compostable” or “home compostable”, since they include compounds that contaminate finished compost.
- (3) The legislature should enact legislation authorizing CalRecycle to develop a process to approve or disapprove the sale of food-contact packaging and foodservice ware

based on whether the product has constituents that would contaminate recycling or composting streams. This would be complementary to existing approvals under the Food and Drug Administration and the Safer Consumer Products Program at the Department of Toxic Substances Control by adding an end-of-life toxicity evaluation.

a. Before any new item of food-contact packaging or foodservice ware is sold, distributed, or offered for sale within the state, it must be approved by CalRecycle, in consultation with the Office of Environmental Health and Hazard Assessment, Department of Food and Agriculture, the Department of Toxic Substance Control and CalEPA.

(i) Items already being sold into the stream of commerce in California with an additive or ingredient that persists through the recycling and composting process and may be of potential harm must also be approved by the Department in the same manner.

b. Responsible parties, producers, manufacturers, distributors or other entity determined by CalRecycle must finance at least one of the following:

(i) Fund their own real-world test certifying their product breaks down to compost in CA-benchmark facilities.

(ii) Certify their product is only made of natural fiber with no other additives.

(iii) Pay a certification fee; such revenue collected will be used to offset administrative costs for product review and costs for facilities that process products/materials that do not break down within a typical cycle.

c. In making this determination, CalRecycle shall:

(i) Evaluate if the item meets the State definition of recyclable or compostable, including not containing the compounds identified in (1).

(ii) Determine if the items being proposed have any persistent compounds that would survive the recycling or composting process, and, if so, would have the potential to cause serious or irreversible harm.

(iii) Bring in additional stakeholders, scientists, and community members for further review as needed.

c. CalRecycle may conditionally approve or provide limited approval for additives or ingredients where the entire impact is not yet certain if the department determines that current research does not support evidence of potential harm. In cases of uncertainty, the Department shall rely on the Precautionary Principle as a guide.

d. Any item of food service ware or food-contact packaging that has either been rejected or has not yet been evaluated must include a conspicuous label informing the consumer that the product is not recyclable or compostable and should not be put in the recycling or composting bin.

(4) The legislature should enact legislation prohibiting the distribution, sale, of food packaging and food containers containing any perfluoroalkyl (PFAS).

Definitions:

Precautionary Principle: “Precautionary Principle” a working definition of United Nations Educational, Scientific, and Cultural Organization, World Commission on the Ethics of Scientific Knowledge and Technology (UNESCO, COMEST), The Precautionary Principle, March 2005:

1. When human activities may lead to morally unacceptable harm that is scientifically plausible but uncertain, actions shall be taken to avoid or diminish that harm.
2. Morally unacceptable harm refers to harm to humans or the environment that is
 1. threatening to human life or health, or
 2. serious and effectively irreversible, or
 3. inequitable to present or future generations, or
 4. imposed without adequate consideration of the human rights of those affected.
3. The judgement of plausibility should be grounded in scientific analysis. Analysis ought to be ongoing so that chosen actions are subject to review.
4. Uncertainty may apply to, but need not be limited to, causality or the bounds of the possible harm.
5. Actions are interventions that are undertaken before harm occurs that seek to avoid or diminish the harm. Actions should be chosen that are proportional to the seriousness of the potential harm, with consideration of their positive and negative consequences, and with an assessment of the moral implications of both action and inaction. The choice of action should be the result of a participatory process.

Chemical: BPC, 19094(a)(3) “Chemical” means either of the following:

(A) An organic or inorganic substance of a particular molecular identity, including any combination of those substances occurring, in whole or in part, as a result of a chemical reaction or occurring in nature, and any element, ion, or uncombined radical, and any degradant, metabolite, or reaction product of a substance with a particular molecular identity.

(B) A chemical ingredient, which means a substance comprising one or more substances described in subparagraph (A).

Policy #4: Problem Products - Incentives and Disincentives

Committee: Organics

Date(s) before full Commission: 12/2/2020

Primary Author(s): Commissioners Coby Skye and Tedd Ward

Adopted: 18 December 2020

That the legislature grants CalEPA authority to regulate products and material applications that contaminate municipal services, curbside recycling collection or processing programs or recycling markets, or pollute the environment including California air basins, land, waterways and coastal regions. Upon receiving an authorized survey confirming that a specified product or material application is an economically or environmentally detrimental contaminant to municipal services or California resource agencies, CalEPA would be required to delegate authority to CalRecycle, the Department of Toxic Substances Control, the Air Resources Board, the Department of Pesticide Regulation, the Office of Environmental Health Hazard Assessment, the State Water Resources Control Board, or some combination thereof to swiftly address that contaminant to minimize facility operational cost impacts, and to prevent the introductions of similar contaminants.

Such legislation would authorize CalEPA agencies including CalRecycle to impose penalties such as Contaminant Introduction Penalties or remediation funds to reimburse for related expenses, product bans with immediate effect, or other regulations to address the impacts of the problem items.

Surveys triggering such action may be initiated by agency staff, trade associations, or advocacy groups. If CalEPA receives surveys which

- have been completed by over 80% of similar municipal services, materials recovery processors, or responsible resource agencies, representing at least 80% of either such facilities, or the land mass, watersheds, coastlines or population of California,
- and the results of such survey indicate that of 80% of such respondents agreed that the specified products or material applications are directly associated with increased pollution, or a tangible increase in operational or processing costs,
- then within 30 days of receipt of such survey CalEPA will be authorized to delegate to one or more of its Departments authority to regulate such product or material use, potentially including one or more of the following:
 - swiftly and permanently resolve the operational or environmental challenge associated with that product or material application, potentially including

- o Contaminant Introduction Penalties of up to 200% of the assessed additional costs to facility operations or environmental remediation across California,
- o Banning of such products or material uses in California,
- o Required development of Extended Producer Responsibility (EPR) programs, or advanced recovery fee structures such as CRVs.

Background:

(1) The California Integrated Waste Management Act (Act) of 1989, administered by the Department of Resources Recycling and Recovery (CalRecycle), generally regulates the disposal, management, and recycling of solid waste, including, among other solid waste, single-use plastic straws. The Act requires each city and county, and each regional agency formed pursuant to the act, to develop a source reduction and recycling element of an integrated waste management plan to divert 50% of all solid waste, through source reduction, recycling, and composting activities. Existing law makes a legislative declaration that it is the policy goal of the state that not less than 75% of solid waste generated be source reduced, recycled, or composted by 2020.

(2) The California Beverage Container Recycling and Litter Reduction Act of 1986 was designed to be a self-funded operation that accomplished two main goals of reducing litter, and achieving a recycling rate of 80 % for eligible containers. Since the program was first implemented in 1987, the recycling rate of eligible containers has increased from 52 % to a program high of 85 % in 2013. In addition to creating and sustaining one of the largest recycling infrastructures in the nation, California's beverage container recycling program has supported thousands of jobs in the state's recycling industry and kept more than 360 billion bottles and cans out of California landfills and off the streets—reducing greenhouse gas emissions associated with mining and refining of new raw materials.

(3) The Sustainable Packaging for the State of California Act of 2018 prohibits a food service facility located in a state-owned facility, operating on or acting as a concessionaire on state property, or under contract to provide food service to a state agency from dispensing prepared food using a type of food service packaging unless the type of food service packaging is on a list that the department publishes and maintains on its internet website that contains types of approved food service packaging that are reusable, recyclable, or compostable.

(4) Senate Bill 212 (SB 212) (Jackson, 2018) establishes a stewardship program, under which a manufacturer or distributor of covered drugs or sharps, or other entity defined to be covered by the legislation, would be required to establish and implement, either on its own or as part of a group of covered entities through membership in a stewardship organization, a stewardship program for covered drugs or for sharps. SB 212 imposes various requirements on a covered entity or stewardship organization that operates a stewardship program, including submitting a proposed stewardship plan, an initial stewardship program budget, an annual budget, annual report, and other specified

information to CalRecycle. SB 212 would require each covered entity, either individually or through the stewardship organization of which it is a part, to pay all administrative and operational costs associated with establishing and implementing the stewardship program in which it participates. SB 212 would also require a covered entity to pay a quarterly administrative fee in the amount adequate to cover any regulatory costs incurred by a state agency in administering and enforcing the provisions of the bill, to be deposited in the Pharmaceutical and Sharps Stewardship Fund, which the bill would create. Additionally, would authorize moneys in the fund to be expended, upon appropriation by the Legislature, for the regulatory activities of state agencies of administering and enforcing SB 212. SB 212 authorizes CalRecycle to impose an administrative penalty on a covered entity, program operator, stewardship organization, or authorized collector that sells, offers for sale, or provides a covered product in violation of the bill's provisions. SB 212 requires CalRecycle to adopt regulations for the administration of the legislation's provisions.

Purpose(s): Currently there is no reliable mechanism whereby products or materials uses that are detrimental, costly or endanger municipal services are identified prior to placement on the market. Fiscally responsible municipal operations depend on a functioning ability to eliminate problematic inputs swiftly.

If California is to be able to provide municipal services, including recovery of collected materials, then those recovery streams must be clarified and protected. That capacity for preventing, or even identifying and effectively resolving problems with recovery stream contaminants does not exist, but is essential if recovery markets are to be relied upon as our primary mode of managing discarded materials.

Furthermore, the mode of contamination may not just be in the materials recovered, but also in litter, illegal dumping, or some other mode of detection by a State resource agency, such as the California Coastal Commission responsible for protecting our coasts. There needs to be an effective mode of identifying, controlling or prohibiting material uses that result in significant environmental impact across our coastline and in our coastal waters without simply accepting that as a never-ending ever-increasing public expense. Clearly what has been done so far has not been up to the task.

There are numerous products that are harmful for the environment, municipal services including materials collections and processing, and these are too numerous and ubiquitous to create separate legislation for each material type and every product. Efforts to enact such legislation have been hampered by the comprehensive review of each product that has been identified as problematic, but the resulting increases in municipal expenses have continued without remedy. This policy recommendation would give CalEPA authority to delegate authority to the most appropriate Department to work with stakeholders to determine the best structures and programs by which to achieve state requirements and clean up our environment and materials recovery streams in a more timely and responsive manner.

Would this policy proposal require legislation, or interaction with an agency other than CalRecycle? Yes, this policy recommendation requires legislation.

Possible 2021 Legislative Priority? Yes, 2021 Legislative Priority. This legislation would further recognize the legitimacy of best practices such as EPR and fee structures for incentivizing and disincentivizing problem products, and allow CalRecycle to implement and impose these best practices on products and their producers. This is critical for adequately meeting state solid waste source reduction, reuse, recycling, conversion and diversion goals, and environmental and public health and safety mandates. California has established a precedent for CalRecycle to regulate problem products such as beverage bottles, packaging, and EPR for pharmaceutical drugs and sharps, paint, carpeting, and mattresses. The EPR policy model has created effective programs for over thirty products in Canada and in Europe. A timely roll out of this regulatory model in California would greatly benefit the public health, safety, environment, and achievement of our materials recovery system requirements.

With recycling markets severely impacted by contamination, flexibility to move swiftly to identify new sources of contamination and establish policy/programs to address contamination are greatly needed. Granting CalRecycle the authority to develop these programs for problem products would provide that flexibility and speed up the process of addressing contamination.

Does this proposal require additional funding or changes to resource allocation?

Initially, staff from CalEPA and perhaps staff from Departments like CalRecycle or the Department of Toxic Substances Control would be engaged in drafting of regulations and development of this program. Once established, further development of this program under Cal EPA could be funded in part by the revenues from Contamination Introduction Penalties.

Proposal(s): Code sections could be many and include Public Resource Code, Division 30, 40000-49620, Part 3 commencing with Section 42000, Part 7 commencing with Section 48700, and other sections of code related to particular problem products.

Definitions and performance standards ought to be set in line with the statutes referenced above, and achieving a true zero and near zero waste circular economy.

CalRecycle works with the AB 1583 Commission and stakeholders to prioritize products that are most problematic for public health and safety, the environment, and the resource recovery system. Reported and observed in similar manner to SB 212 Pharmaceutical Drugs and Sharps EPR.

Overseen by CalRecycle, in collaboration with any State agencies that have regulatory authority over a product.

The time frame would be timely regulation development and implementation of product incentives and disincentives over the next couple of years, scaled up over the next few years, and then regulated indefinitely.

Related Issues: This policy is intended to complement the Precautionary Principle policy, which focuses more on contaminating chemicals rather than product or material applications.

Policy #5: State Agency Buy Recycled Campaign

Committee: Market Dev't

Date(s) before full Commission: October 7, October 21

Primary Author(s): Heidi Sanborn, John Davis

Adopted: 18 December 2020

Background: The State Agency Buy Recycled Campaign (SABRC) is a joint effort between CalRecycle and the Department of General Services (DGS) to implement state laws requiring state agencies and the Legislature to purchase recycled-content products (RCP) and track those purchases.

SABRC compliance was 80% of qualified purchases in 2018/19 (\$336 million compliant, \$82 million non-compliant), representing 13% of statewide product purchases.

Purpose(s): Update and enhance SABRC by codifying enforcement, expanding coverage, requiring regular training, verifying product claims; and focusing on durable, reusable, refillable and repairable options.

Would this policy proposal require legislation, or interaction with an agency other than CalRecycle? Yes. CalRecycle needs the authority to ask for more detailed reports and have an enforcement mechanism to ensure state agencies report and are held accountable if they fail to purchase the products. CalRecycle administers SABRC jointly with DGS.

Possible 2021 Legislative Priority? Yes – the State of California has huge purchasing power and the ability to use it to drive markets for recycled content products or products with no toxics or designed to be durable and repairable. Failing to fully use that purchasing power is simply failing to lead. We need the State to “vote with public dollars” for the products we want sold in California and not just set mandates for others to follow.

Does this proposal require additional funding or changes to resource allocation? Legislation is required to add an effective statutory enforcement mechanism for non-compliant state agencies through SABRC. Legislation may be needed to clarify that SABRC covers all purchases of goods by state agencies and contractors; and that SABRC includes service contracts where the contractor is purchasing reportable recycled products in the performance of the service contract.

Proposal(s): These recommendations may be accomplished by CalRecycle and DGS except as noted above for legislation.

1. Establish/work with a company to develop third party verification of recycled content, reuse and repair claims

2. Incentivize/include durable, reusable, refillable and repairable options when possible
3. Require repair information for all purchases, including electronics
4. Preference be given to vendors who provide the state with repair manuals, repair parts and diagnostic tools
5. Add an effective statutory enforcement mechanism for non-compliant state agencies through SABRC. Enforcement should be equivalent to level held by local jurisdictions.
6. Clarify that SABRC covers all purchases of goods by state agencies and contractors
7. Clarify that SABRC includes service contracts where the contractor is purchasing reportable recycled products in the performance of the service contract
8. Revise product categories and minimum content percentages and update every three years
9. Remove requirement to purchase only when available at the same or lesser total cost than non-recycled products
10. Require annual mandatory online training for procurement and contracting officers

Policy #6: Recycling Market Development Zone Loan Program

Committee: Market Development

Date(s) before full Commission: Nov. 18; Oct 21

Primary Author(s): John Davis, Manuel Medrano

Adopted: 18 December 2020

Background: The Recycling Market Development Zone loan program (PRC 42023.1) is administered by CalRecycle. This revolving loan program has lent over \$149 million to 190 borrowers since 1993. The Recycling Market Development Revolving Loan Subaccount (Subaccount) includes loan repayments, points, fees and interest. The Subaccount funds CalRecycle's loan program administration; while application fees pay for the department's cost of processing applications for loans. PRC 42023.4 specifies loan requirements. The highest priority for funding is to projects that demonstrate increased market demand for recycling that project's type of postconsumer waste material. Loan terms shall not exceed 10 years, or 15 years if collateralized by real estate. Financing is no more than \$2million or $\frac{3}{4}$ of the project cost. CalRecycle allows additional loans from the same borrower. The current loan interest rate is 4% fixed. However the statute indicates that borrowers should repay principal "plus interest on the basis of the rate of return for money in the Surplus Money Investment Fund at the time of the loan commitment." The SMIF rate on September 30, 2020 is 0.698%.

This proposal addresses the goal of PRC 42005(b)(1) Increasing market demand for post-consumer waste materials and secondary waste materials available due to California's source reduction and recycling programs.

Purpose(s): Most RMDZ loan activity occurred during the program's first 13 years. 71% of loans representing 57% of value were issued between 1993 and 2005, averaging ten loans annually during that time. The average is four loans per year since 2006, although the average value has increased from approximately \$633,000 to nearly \$1,150,000. The recommendation is to cooperatively restructure the RMDZ loan program around consensus recommendations from ZAs and CalRecycle, based on input from previous borrowers and applicants. The current loan structure favors equipment purchases over real estate or operating capital.

Would this policy proposal require legislation, or interaction with an agency other than CalRecycle? The current \$2 million maximum loan amount is capped by legislation.

Possible 2021 Legislative Priority? Not highest priority, should be considered as part of other recommended actions

Does this proposal require additional funding or changes to resource allocation?

Reducing the loan interest rate eventually would reduce funds available for program administration

Proposal(s):

- Evaluate the current policy and procedures of the RMDZ loan program to achieve the following results:
 - a) Accelerate the loan approval process within 30 days of CalRecycle receiving a complete loan application.
 - b) Refer potential projects immediately to CalRecycle loan staff for eligibility determination and initial intake.
 - c) Create an online loan application form to be processed by loan staff.
 - d) Reduce the loan interest rate
- Perform a comprehensive loan fund review to secure perpetuity
- Consider issuing an I-Bank bond secured by loan repayments to increase amount of loan funds available
- Increase the overall loan amount to focus on highest priority materials and financing needs per needs in the state based on exported material and shovel-ready projects to address a deficit.
- Offer a microloan program to offer loans from \$5,000-\$75,000

Related Issues: This proposal is related to the CalRecycle Market Development Focus proposal

Policy #7: Consolidated Permit Process Utilization and Enhancement

Committee: Market Development then Organics

Date(s) before full Commission: Dec. 16, 2020, Dec. 18, 2020

Primary Author(s): John Davis, Joseph Kalpakoff, Alex Oseguera

Adopted: 18 December 2020

Background: Public Resources Code Section 71000 et seq. comprises The Environmental Protection Permit Reform Act of 1993. The Act allows a permit applicant to request that one agency coordinate all state environmental permits, including permits issued by regional water boards and air pollution control districts. A Consolidated Permit Process is described in detail beginning in PRC Section 71020.

The Permit Streamlining Act (Government Code Section 65920 et. seq.) sets out local government permitting obligations. Local government development agreements are authorized in Government Code Section 65864 et. seq. Development agreements are contracts negotiated between project proponents and public agencies that govern the land uses that may be allowed in a particular project. Although subject to negotiation, allowable land uses must be consistent with the local planning policies formulated by the legislative body through its general plan, and consistent with any applicable specific plan

The consolidated permit process helps facilitate permitting decisions by providing a single point of contact for multiple permits, identifying needed permits and information earlier in the permitting process, and reducing the need to provide duplicate information to different agencies. However, the consolidated permitting process does not authorize CalEPA to require local permitting authorities to participate in this process. Furthermore, the consolidated permit process should prioritize facilities that contribute to meeting the State of California's recycling and organic goals. Specifically, projects should be provided a priority classification and permitting

assistance if the project demonstrates air emission and recycling benefits as compared to established air emission and recycling baselines.

Under the existing process, the Secretary of CalEPA reviews the information and must designate a consolidated permit agency within 30 days of receiving a complete request. Within five days, the consolidated permit agency must notify the applicant of the designation and schedule a meeting to occur within 15 days of the designation for representatives of all participating permitting agencies to meet with the applicant.

The consolidated permit agency will provide each participating agency and the applicant the information needed to complete each permit, and the parties need to agree to a plan, including timelines for each participating agency to process the permit. Agencies establish timelines for determining the completeness of the application, reviewing the applications, processing each permit, and for consolidating the issued permits.

Following the meeting, applications are submitted to the permitting agencies, and each agency has 30 days to determine if the application is complete.

The agreed upon plan guides the participating agencies' processing of the application and review of information. The agencies can request additional information to clarify or supplement the information the applicant originally provided within 30 days of receiving the application. The consolidated permit agency is responsible for ensuring participating agencies perform the work needed to process the permits within the agreed-upon timelines. The consolidated permit agency must compile permits and provide them to the applicant within 30 days after the last participating agency issues its permit.

This proposal addresses the goal of PRC 42005(b)(1) Increasing market demand for postconsumer waste materials and secondary waste materials available due to California's source reduction and recycling programs. Additionally, it should highlight the air emission benefits and material management enhancement of the project.

Purpose(s): The goal to increase the processing infrastructure and market demand for California post-consumer waste materials and secondary waste

materials will only be met by assuring there is the necessary infrastructure and demand for material supplies and high quality feedstocks. A more effective and efficient permitting process will provide increased certainty and reduce investment risk for environmentally beneficial projects. An effective and timely permitting process will increase the number of entrepreneurs and innovative players willing to invest in projects that assist with meeting the state's 21st Century Green Circular Economy goals.

Would this policy proposal require legislation, or interaction with an agency other than CalRecycle? Yes, CalEPA

Possible 2021 Legislative Priority? Unnecessary

Does this proposal require additional funding or changes to resource allocation? Redirection of existing staff with clear guidelines, prioritization and expedited timelines for permitting of environmentally beneficial projects.

Proposal(s):

Facility siting revolves around permits issued by local governments and state and regional environmental agencies. Critical to this proposal is communication between different regional agencies responsible for air and water quality protection with respect to review of facilities and technologies for resource recovery and composting. Coordinating those permits needs improvement if California is to meet its recycling goals and contribute to substantial greenhouse gas reduction. These recommendations are focused on removal of subject matter knowledge barriers, bureaucratic delays (green tape) and overcoming administrative obstacles (routine changes in permitting personnel that create unnecessary permitting delays). The Commission wishes to ensure that we are equally protective of all communities and therefore wants to state clearly for the record that these recommendations are not intended to modify any permit conditions, requirements or authority.

The following recommendations are intended to increase the efficiency needed to accelerate worthy project permits by streamlining processes among Governor's Office of Business and Economic Development (GOBiz), CalEPA, CalRecycle, State and Regional Water Boards, Air

Resources Board and Air Quality Management Districts, cities and counties, Local Enforcement Agencies, and other affected state or local agencies. Permit streamlining and consolidation should assist local source reduction activities including reuse and repair, demand creation projects as well as enhancements and/or development of composting and recycling projects by reducing cost overruns caused by green tape delays..

Involving local permitting agencies in the Consolidated Permitting Process plus including local requirements and timelines would assure a more fully consolidated process and sharing of project knowledge and information. It is important to highlight that governmental agencies' discretionary authority remains unchanged by these recommendations, and that the process does not guarantee permit issuance but aims to significantly reduce structural bottlenecks that have developed over time (green tape reduction).

1. Set a threshold for Significant Climate Impact priority for state and local coordination. Recycling and organics management projects reduce greenhouse gas emissions due to the volume of material handled and their associated emission reduction factors. "Significant" impacts would optimize facility throughput and be geographically distributed as needed to serve local and regional markets. Projects will be provided a priority classification and supplied permitting assistance if the project demonstrates air emission and recycling benefits as compared to established air emission and recycling baselines (e.g. significant reductions in VOC's).
2. Use a consolidated permit application and local development agreements to set out conditions needed to complete the permits.
3. Require permit completion within the project's stated completion date provided that the project developer proceeds as agreed in the process.. Agencies' discretionary authority remains unchanged by these recommendations, and the process does not guarantee permit issuance.
4. Undertake pilot projects for state and local streamlining around Significant recycling and organics management projects.
5. Designate a lead CalEPA contact for projects utilizing the Consolidated Permitting Process.

6. Clarify that GOBiz may initiate the Consolidated Permitting Process in coordination with CalEPA.
7. Authorize CalRecycle to initiate the permit process with CalEPA and act as permit agency for recycling and organics management projects.

The Market Development and Organic sub-committees acknowledge that the California Environmental Quality Act (CEQA) impacts permitting. The Committee intends to identify and encourage focus on resolving those impacts. Consideration will include use of statewide Project Environmental Impact Reports for significant projects, and essential public service designations.

Related Issues: This proposal is related to the CalRecycle Market Development and GOBiz proposals

Policy #8: Governor's Office of Business and Economic Development (GO-Biz) Enhanced Role

Committee: Market Development

Date(s) before full Commission: Nov. 18; Oct 21

Primary Author(s): John Davis, Heidi Sanborn

Adopted: 18 December 2020

Background: The Governor's Office of Business and Economic Development (GO-Biz) was created by Governor Edmund G. Brown Jr. to serve as California's single point of contact for economic development and job creation efforts. GO-Biz offers a range of services to business owners including: attraction, retention and expansion services, site selection, permit streamlining, clearing of regulatory hurdles, small business assistance, international trade development, and assistance with state government <https://business.ca.gov/>

Purpose(s): The Governor's Office of Business and Economic Development (GOBiz) leads the state's efforts to create jobs, promote economic development and provide direct business assistance. They can play an essential role in expanded California recycling and organics management infrastructure by identifying incentives, selecting sites, assistance with regulatory compliance and permitting, facilitating foreign investment and export opportunities.

Would this policy proposal require legislation, or interaction with an agency other than CalRecycle? Yes, Governor's Office of Business and Economic Development

Possible 2021 Legislative Priority? Unnecessary

Does this proposal require additional funding or changes to resource allocation?
Redirection of existing staff

Proposal(s):

The following recommendations would enhance [GOBiz's](#) capacity to serve recycling and organics management operations.

1. Assign a dedicated GOBiz workgroup for recycling manufacturing and organics management projects
2. Designate a GOBiz liaison for Essential/Significant projects under CalEPA consolidated permitting
3. Include reuse, repair, organics and recycling manufacturing in [CalGold](#)
4. Coordinate business financing options with CalRecycle and local government market development efforts
5. Share job development and training assistance, including focus on Environmental Justice (CalEnviroScreen) communities, with CalRecycle and local market development identified businesses

Related Issues: This proposal is related to the CalRecycle Market Development and CalEPA Consolidated Permitting proposals

Policy #9: CalRecycle Market Development Focus

Committee: Market Dev't

Date(s) before full Commission: Nov. 18; Oct 21

Primary Author(s): John Davis, Manuel Medrano

Adopted: 18 December 2020

Background: Public Resources Code 42000 finds that “market development is the key to increased, cost-effective recycling. PRC 42005(b)(1) calls for increasing market demand for post-consumer waste materials and secondary waste materials available due to California’s source reduction and recycling programs. PRC 42010 provides that local governments may propose property for inclusion as a recycling market development zone when “current waste management practices and conditions are favorable to the development of postconsumer waste material markets” and “designation as a recycling market development zone is necessary to assist in attracting private sector recycling investments to the area.” CalRecycle designates and redesignates zones following an application process describing local regulatory, tax and other incentives. The RMDZ loan program (PRC 42023.1) is administered by CalRecycle.

This proposal addresses the goal of PRC 42005(b)(1) Increasing market demand for post-consumer waste materials and secondary waste materials available due to California’s source reduction and recycling programs

Purpose(s): CalRecycle’s market development efforts are diffuse. Expertise in technologies, permitting, finance, research, and local assistance is spread among its divisions, sections and branches. This knowledge is invaluable but its diffusion means that no one is focused specifically on broad market development issues, challenges and opportunities.

Would this policy proposal require legislation, or interaction with an agency other than CalRecycle? No

Possible 2021 Legislative Priority? Unnecessary

Does this proposal require additional funding or changes to resource allocation?
Reallocation of existing staff

Proposal(s):

Focus on Market Development

CalRecycle should create a centralized Market Development Unit staffed with business development, fiscal and economic analysis expertise to identify and recruit needed

industries. CalRecycle should continue its agency-wide market development efforts. The new Market Development Unit would centralize those efforts.

A new Market Development Unit should create a framework to identify gaps in statewide recycling, organics, reuse and repair infrastructure; and prepare strategies with stakeholders to fill the gaps. Regional solid waste planning, West Coast collaboration, and US EPA's national markets efforts should be part of that framework along with business groups and trade associations.

California's colleges and universities are essential research and development hubs, and may collaborate with business groups to create innovation hubs and statewide competitions to develop new technologies for recycling manufacturing and organic management projects. Higher education institutions also may provide input on training opportunities and emerging markets analysis. The framework also should consider developing investment opportunities in reuse, repair, recycling manufacturing and organic waste management projects via national and international invitation events.

The Market Development Committee supports concepts that the state incentivizes essential reuse, repair, recycling, and composting businesses through tax abatement and excess land donation. We will consider detailed recommendations by June 2021..

Priorities for the new CalRecycle's Market Development Unit include both traditional economic development approaches, and industry specific initiatives, including the following:

- Approximately 10,000,000 tons of paper fibers are exported annually from California ports, with about 80% generated in California. Recycled paper pulping is an emerging industry trend, avoiding bale contamination issues by creating market grade pulp for paper making. A successful market development effort focused on paper pulping would overcome reliance on bale exports, create local jobs and business opportunities, and strengthen California's recycling infrastructure. This effort could include siting assistance, local and state permitting coordination, feedstock identification and acquisition, financing options.
- Existing tax incentive programs such as CAEFTA could be focused on prioritizing end use markets for recovered materials.
- California's economy offers potential to expand existing business use of recycled materials by working to identify manufacturers who could substitute virgin materials for recycled feedstock. Business development tools can mine databases to identify those manufacturers, and market development professionals could work with those manufacturers to convert to recycled feedstock.
- Myriad opportunities exist to work with existing small reuse and repair businesses. Statewide source reduction can be enhanced by identifying and

responding to their needs, especially expansion and business start-up potential to replace single-use items.

Communication

Economic development is local, occurring daily in communities across the state. CalRecycle's Market Development Unit needs to mesh with local communities and not impose one-size-fits-all solutions.

CalRecycle should track and share market information regularly (at least monthly) including pricing, end user destinations (export/domestic/in-state), allowable contamination limits, market trends and opportunities.

CalRecycle should create a communication network including local government, collectors, processing, brokers, colleges and universities, businesses and manufacturers who share the goal of enhanced market development. The Northeast Recycling Coalition is a model for this sort of information sharing. The communication network should collect information from CalRecycle divisions as well, and disseminate information to those divisions.

Recycling Market Development Zone Administrators can be useful in structuring and delivering focused CalRecycle market development assistance. Coordinating and sharing GOBiz requests and outside financing assistance responses with ZAs is a first step.

Related Issues: This proposal is related to the RMDZ Loan Program proposal

Policy #10: Controls on Plastic Waste Exports

Date(s) before full Commission: 16 December 2020, Dec 18, 2020

Primary Author(s): Commissioners Richard Valle and Nick Lapis, with edits from Eric Potashner

Adopted: 18 December 2020

Background:

On January 1, 2020, new global rules placing trade controls on plastic waste for 188 potential US trading partners will go into effect. These rules require that plastic waste which is not sorted and cleaned to single polymers without significant contamination will fall within the Basel Convention's Annex II, and as such will only be allowed for export to other Basel Parties, when there are assurances of environmentally sound management, and only if the recipient Basel Party is first notified by the exporting country and receives their consent. Further, and most important for California, as part of the United States, the 188 Basel Parties will not be able to legally receive these newly controlled wastes from the United States at all due to the fact that the United States is not Party to the Convention.

These rules were adopted globally by a consensus of Basel Parties to ensure that problematic and difficult to recycle plastic scrap trade is fully transparent and proceeds only to facilities and countries that can ensure environmentally sound management.

However, as long as the United States is not a Party to the Basel Convention, it is not known whether the US government will move to prosecute such exports, which are not technically illegal under US law, but nevertheless violate the laws of importing countries.

Meanwhile, California will be in the eye of the storm as it currently leads the nation in export volumes from its ports, of these types of mixed/contaminated bales of plastic, and paper mixed with plastic, most of which moves to Southeast Asia. Many of these Asian facilities have been revealed to utilize substandard processing methods, with considerable amounts of the waste going unrecycled, dumped and burned resulting in pollution and health impacts.

Already, even before the new rules enter into force, many countries such as Malaysia, Thailand and Indonesia are returning shipments of mixed and contaminated scrap containing scrap plastics, and setting new import restrictions. California must move quickly if it is to avoid being embroiled in an international waste trade scandal which will

increasingly be exposed as shipments violating the laws of the importing Basel Party countries are seized or returned with much fanfare back to California ports.

Purpose: The recommendations below provide remedy consistent with the US Constitution's Commerce clause, the California Unfair Business Statute, as well as Basel Convention's new trade rules, applicable to California's overseas trading partners. They require, as does the Basel Convention, full transparency as to the final destination of the wastes in the recipient country. Destination countries require this of Basel Parties that export to them, and indeed California ratepayers should have the right to know where their waste, once collected, ends up and that it is not going to damage the environment anywhere in the world.

Further, the recommendations intend that plastic waste collection and management entities including municipalities, waste management companies, and their brokers, operating within the State of California only engage in plastic waste trade which will not violate the laws of the importing country. These recommendations call for an end to diversion credits for recycling overseas unless the recycling can be demonstrated to be lawful in all relevant global jurisdictions.

Finally, the United States is the only developed country in the world that has not ratified the Basel Convention and such ratification is long overdue. The state legislature should play a role in encouraging this important outcome.

Note: Exports of plastics waste covered under Basel listings (A3210 or Y48) which will not be allowed in accordance with this statute will include a) any exports to Basel Parties with the exception of Canada and Mexico, as long as the US remains a non-Basel Party, or b) if/when the US becomes a Basel Party, any exports which do not proceed in accordance with the Basel Convention's obligations. A list of Basel Parties is found here.

Recommendation #1: Full Transparency on Plastic Waste Destinations

CalRecycle should increase transparency of information reported pursuant to the new Recycling and Disposal Facility Reporting (AB 901) to insure that all residents have access to clear information on where their recyclable materials are sent, including the names and locations of the specific facilities where material is sent once it leaves the United States, even if it is being handled by a broker.

If CalRecycle determines that information reported through RDRS indicates that a broker is exporting material in violation of the laws of the importing country, this will violate Recommendation #1 above, and CalRecycle shall notify all recycling facilities

and local jurisdictions of this and the fact that this broker's activities are likely to violate importing country laws.

Recommendation #2: Elimination of Diversion Credits for Mixed Plastics Exports

The export of mixed plastics (except for bales of sorted single resin materials or mixed bales of HDPE, PET and Polypropylene that have manufacturing end markets) should be considered disposal for purposes of determining compliance with a jurisdiction's per capita disposal reduction targets. Mixed materials exported to other countries cannot be verifiably proven to have been recycled, and as such, should not count as being diverted. Since all of these mixed materials do not have clear recycling markets, and have been shown to have extremely high residual rates, the likely disposal of these exported materials should not be incentivized over any other form of disposal.

Recommendation #3: California should encourage Federal action on Basel Convention Ratification

The legislature shall pass a resolution to encourage Congress to ratify the Basel Convention at the earliest possible date. Further, after the adoption of the resolution, the state should direct its federal advocates to work with the California congressional delegation to advocate for this change.

Policy #11: Carpet Stewardship and Flooring

Committee: Market Development

Date(s) before full Commission: Nov. 18; Oct 21, Dec. 16

Primary Author(s): John Davis, Heidi Sanborn

Adopted: 18 December 2020

Background: California is the first state to require a statewide carpet recycling program designed and implemented by carpet manufacturers with CalRecycle oversight. Carpet America Recovery Effort (CARE) is the manufacturers' stewardship organization that implements the program.

As an extended producer responsibility recycling program, carpet manufacturers (either individually or through their stewardship organization) design and implement their own stewardship program but it is funded by a visible fee assessed at point of sale paid for by consumers. The stewardship organization prepares and implements a plan to reach program goals, finances and distributes funds to support the stewardship program, and reports to CalRecycle on their progress. CalRecycle's role in the carpet stewardship program is to review and approve plans, check progress, and support industry by providing oversight and enforcement to ensure a level playing field among carpet manufacturers.

California's [Carpet Stewardship Law](#) states that the amount of the assessment shall be sufficient to meet, but not exceed, the anticipated cost carrying out the plan. The current assessment is \$0.35 per square yard of carpet sold in California, amounting to \$28.2 million in 2019. Subsidies are paid to Collectors/Sorters, Processors and Manufacturers totaling \$14.56 million in 2019. Direct program costs (\$7.24 million) and CARE administration (\$2.16 million) comprise the remaining 2019 expenses for a grand total of \$23.96 million.

AB 1158 statute set a recycling rate of 24% by January 1, 2020. The program achieved an overall 19.1% rate for 2019, reaching 22.5% in the 4th Quarter. CARE's 2019 California Annual Report indicates that 73.6 million pounds were collected by the program, yielding 58 million pounds of output

primarily PET (24.5 million) and Nylon 6 (10.5 million) fibers, and calcium carbonate (14.1 million).

The California Department of Toxic Substances Control issued a “Product – Chemical Profile for Carpets and Rugs Containing Perfluoroalkyl or Polyfluoroalkyl Substances” in October 2019. The Profile is a report generated by DTSC to explain its determination that a proposed Priority Product meets the Safer Consumer Products regulatory criteria for potential significant or widespread adverse impacts to humans or the environment. The Profile is not a regulatory document and does not impose any regulatory requirements.

The Profile addresses carpet recycling:

“Given the relatively long useful life span of carpets, on the order of one to two decades (Arcuri 2015), the carpets and rugs entering the waste stream now may contain side-chain fluorinated polymers that degrade into longer-chain PFAAs. Because PFASs are not removed during recycling, new carpets containing recycled carpet content will inadvertently perpetuate the presence of longer-chain PFASs in California homes. Recycled carpet content may lead to the presence of PFASs even in carpets without intentionally added PFAS-based treatments (Changing Markets Foundation 2018).”

The Profile notes that impacts occur from other end-of-life carpet options, including combustion (PFCAs and CFCs as well as fluorocarbons) and landfill leachate and treated leachate from Waste Water Treatment Plants.

This proposal addresses the goal of PRC 42005(b)(2) Increasing demand for recycled content products, especially high quality, value-added products.

Purpose(s): The Commission and Market Development Committee received public comments and proposals focused on collection and product toxicity. This proposal addresses those concerns and other issues identified by the Committee.

Would this policy proposal require legislation, or interaction with an agency other than CalRecycle? Yes. CARE is the product stewardship organization for carpet and is responsible for the program. Legislation is needed.

Possible 2021 Legislative Priority? Yes. Ban sale of any flooring product, carpet/pad etc. containing PFAs. Require all non-natural flooring and padding to be tested for safety by Dept. of Consumer Affairs. Ban the disposal of carpet in California without first being sent through qualified sorters.

Does this proposal require additional funding or changes to resource allocation? It would increase the costs to manage the CARE program to increase carpet collection and safety. Collection costs would increase to provide hard to handle reimbursement and may increase for installers network expansion to significantly increase collection.

Proposal(s):

CARE is preparing recommendations around highest recyclability and differential assessments that were originally expected in October 2020 but are now due to CalRecycle by June 2021 due to an extension to the deadline approved by CalRecycle. The following proposals involve more reporting and planning detail around resin types.

1. CalRecycle should require that CARE submit a clearly stated annual implementation plan showing anticipated generation and yield, needed collection and processing, and end use destinations for sufficient carpet and resulting by-products (by resin type) to meet or exceed annual goals.
2. CalRecycle should require a clearly stated annual financial plan showing anticipated revenue and its use to support the implementation plan elements, with expenditures linked to subsidized activity and cumulative expenditures by resin type.

Carpet toxicity concerns are amplified by DTSC's Profile:

https://dtsc.ca.gov/wp-content/uploads/sites/31/2020/02/Final_Product-Chemical_Profile_Carpets_Rugs_PFASs_a.pdf. These recommendations focus on issues raised in the Profile they may impact CARE's program and reflect Precautionary Principle approaches endorsed by the Commission.

3. CalRecycle should provide public written preapproval for any studies to be conducted with public fee money, and ensure that those studies remain public and transparent to CalRecycle and the public, and results provided in a timely fashion.

4. CARE needs to address concerns raised by DTSC's Profile, identifying protocols to reduce worker and continued public exposure impacts from carpet recycling. Exposures include continued circulation of PFAs through fiber and calcium carbonate recycling.
5. Ban sale of any flooring product, carpet/pad etc. containing PFAS.
6. Require all non-natural flooring and padding to be tested for safety by Dept. of Consumer Affairs.

CARE needs to assure that carpet collection keeps up with demand for California recycled materials as recycled carpet manufacturing operations open and expand. There are existing recycled carpet markets, infrastructure is more developed. After ten years the carpet stewardship program has a greater market in California that needs to receive the material. The continued expansion of recycled carpet markets depends on expanded effective collections, currently estimated at 27%.

7. CARE needs to set and meet resin-specific collection goals for materials and volume to serve in-state recycling manufacturers.
8. Professional carpet installers, and installers replacing carpet with other flooring, handle up to 90% of carpet discards. CARE needs to increase its efforts to secure carpet from installers, working with retailers, wholesalers and distribution facilities to provide efficient collection options. If CARE does not offer to incentivize collection of carpet and pay the people that must keep it clean, dry, rolled up fiber in, and delivered to a facility for their labor, they cannot claim they cannot meet the goals due to lack of collection.
9. CARE should collect carpet at no cost from the installers' network in order to avoid conflicts with local hauling arrangements or make arrangements with local haulers under existing arrangements to deliver installers' loads to a CSE or processor. Carpet recycling processing residuals must be managed in accordance with local rules, laws and applicable franchise language.
10. CARE should collect carpet at no cost from MRFs, landfills, and transfer stations, including hard-to-handle reimbursements as is done in the very similar mattress stewardship program.

11. Ban the disposal of separated, unsoiled carpet in California without first being sent through qualified sorters for inclusion in CARE's program.

Related Issues: Precautionary Principle

Policy #12: Food Recovery Policies

Committee: Organics

Adopted: 18 December 2020

Purpose: Provide additional priority and funding to food recovery in California to ensure the highest and best use of edible food, and recognizing that food recovery operates in parallel to traditional waste collection and recycling systems. SB 1383 requires that 20% of edible food be recovered for human consumption, instead of entering the waste stream. In order to achieve this target, additional investment is needed to support and expand the food recovery system. Investments in food recovery are very cost effective when considering life cycle costs for managing this material, including downstream waste management, and the benefits, including meeting human nutritional needs and a healthier environment.

Background: This proposal would develop and support the Food Recovery sector as a system along with best practices including infrastructure, technology, and capacity design and development, transportation, staffing, training, programming, operations, logistics, and education and outreach.

Proposals:

1. Food Donation
 1. Prepare and disseminate uniform information and resources regarding California's Good Samaritan Law (AB 1219, Eggman, 2017) which provides liability protection for donors and donated food to increase food donation. The department should enact its authority under Section 114435 in the California Health and Safety Code to mandate local enforcement officers to educate businesses about California's robust donor protection laws during their routine inspections.
 2. The legislature should renew the Farm to Food Bank Tax Credit, which is set to expire at the end of 2021, and expand it to other producers of edible food waste, such as restaurants, retailers, and other foodservice providers. The current tax credit provided to farmers is estimated to generate [10-20 lbs of food donations](#) to food banks and other recovery organizations for every dollar spent. According to [ReFed's "Roadmap to Reduce U.S. Food Waste by 20 Percent"](#), approximately 1 million meals can be donated to hungry people for every \$1 million provided in tax deductions to restaurants and retailers.
2. Food Date Labeling

3. The legislature should mandate uniform date labeling on food items pursuant to the state policy previously adopted under AB 954 (Chiu, 2017). Current law requires CDFA to promote voluntary standards for food distributors and retailers to adopt the following date labels:
 1. “BEST if Used by” or “BEST if Frozen by” to indicate freshness
 2. “USE by” or “USE or Freeze by” to indicate safety
 3. No use of consumer facing “sell-by” dates
 4. If the legislature fails to act, the Department should require this pursuant to SB 1383 authority, since it has been identified as the most cost-effective way to reduce food waste.
4. In conjunction with CDFA, the Department of Public Health and manufacturers, CalRecycle should issue clear guidance on a uniform process for determining “freshness” and “safety” dates for food.
5. The department should include education about interpreting food date labels in the public outreach campaign pursuant to SB 1383 (Lara, 2016).
3. Invest in food recovery infrastructure
 6. As funding becomes available, either through the Greenhouse Gas Reduction Fund or through the proposed ballot measure, CalRecycle should significantly expand its current Food Waste Rescue and Prevention Grant Program to fund more projects, support staff and overhead, and switch to a model based on multi-year funding..
4. Sustainable funding for food recovery organizations
 8. Expand ycleFoodreventcuranam and incentivize local jurisdictions to include resources for food recovery programs and infrastructure in their contracts in their solid waste franchise. For example, the [City of LA's recyLA program](#) requires all waste collection contracts to include partnerships and funding of reuse and food recovery from customers.
 9. Incentivize local jurisdictions to include funding for food recovery infrastructure through the solid waste rates, AB 939 fees, franchise fees, or other parts of the jurisdiction’s solid waste rate structure. This model has successfully funded the development of nearly all of California’s existing recycling infrastructure and could be used to ensure that food recovery organizations have consistent, long-term funding instead of a heavy reliance on grants and volunteers.
 10. Provide guidance on direct generator financial support for food recovery organizations. Donations produce tax credits, but only when there is sufficient infrastructure to collect and distribute the food. Food recovery organizations should be able to receive money directly from generators to support that infrastructure and create the tax benefits.
5. Cross-sectoral partnerships

1. The legislature should incentivize corporations to reach their Corporate Social Responsibility goals through creative partnerships with food recovery organizations.
 1. For example, rideshare companies can receive tax credits for providing real-time transportation for food that needs immediate pick-up and delivery. Waste Not OC partners with the [Yellow Cab Company of Greater Orange County](#) to pick up and deliver perishable food to local pantries, often in late night hours when nonprofits don't have the capacity to do so, taxis are idle, and restaurants are closing.
6. Education and Outreach
 1. In conjunction with the SB 1383 public education campaign, CalRecycle should incorporate food waste education to promote the culture of food waste avoidance, including tips on extending food shelf life, storing perishables properly, and interpreting food date labels. Messaging should appeal to a variety of values, including economic, environmental and societal benefits.
 2. Similar to food safety training, food service employees should go through online training videos about "best practices" to best utilize as much food as possible, avoid contamination and sort waste properly. This training should also include information on the liability protections provided by California Good Samaritan Law, along with clear instructions on how to donate leftover food. This can be supplemented/reinforced with printed signage, especially at points of disposal.
 3. CalRecycle should establish a methodology for tracking impact metrics of their education campaign. This has been done in the UK through Waste and Resources Action Programme's (WRAP) ["Love Food, Hate Waste" campaign](#), which has reduced consumer food waste by 21% in 5 years.
7. Develop and maintain a database of food recovery entities to facilitate regional collaboration.
 1. To encourage regional collaboration, the State should develop and maintain a list of entities involved in food recovery including but not limited to food pantries, non-profits, food distributors, food processors, and others; to include contact information and an overview of each entity.
 2. CalRecycle should assess existing and future facilities and infrastructure needed to meet the State's Food Rescue goals every two years, starting in 2021.

Policy #13: Right to Repair

Date(s) before full Commission: 16 December 2020

Primary Author(s): Ward and Schneider

Adopted: 18 December 2020

Background: Right to Repair reforms, such as Assemblymember Susan Eggman's AB 1163 from last session, require manufacturers to provide access to repair information and software, and to sell spare parts and any required tools on fair and reasonable terms.

When manufacturers restrict access to spare parts and replacement parts, diagnostic tools, service manuals, and similar information, such actions ultimately have the effect that such items are landfilled, recycled, e-wasted or otherwise discarded at higher frequency and tonnages than necessary.

Electronic waste is among the fastest growing portions of California's waste stream. Although it currently makes up 2 percent of the waste stream, it comprises 70 percent of its toxicity. That waste represents an unnecessary burden on, and fire risk to California's waste systems.

With Right to Repair legislation in place, individuals and independent repair shops would have the ability to keep products in use longer. Currently, manufacturers design products that are difficult or impossible to repair without damaging the product, often forcing consumers to buy new products and discard old ones. For example: many of these products contain glued-in batteries, making them challenging and costly to recycle, or use proprietary or unusual screws that impair the ability to simply open them up. Other products are built with software locks that prevent the device from working even after it has been fixed unless the manufacturer resets or unlocks it.

Furthermore, asserting a Digital Right to Repair is becoming important because as things increasingly become a combination of hardware and software; being able to address a mechanical or electrical failure in a device may no longer be sufficient to affect repair.

Under existing law, every manufacturer making an express warranty with respect to an electronic or appliance product, including, among others, televisions, radios, audio or video recording equipment, major home appliances, antennas, and rotators, with a wholesale price to the retailer of not less than \$50 nor more than \$99.99 is required to make available to service and repair facilities sufficient service literature and functional parts to effect the repair of the product for at least 3 years after the date a product model or type was manufactured, regardless of whether the 3-year period exceeds the warranty period for the product.

Existing law also requires every manufacturer making an express warranty with respect to an electronic or appliance product, as described above, with a wholesale price to the retailer of \$100 or more, to make available to service and repair facilities sufficient service literature and functional parts to effect the repair of the product for at least 7 years after the date a product model or type was manufactured, regardless of whether the 7-year period exceeds the warranty period for the product.

Purpose(s): This proposal would establish the most basic foundations for asserting that products should be repairable by the owner: to protect and maximize the ability of a purchaser/owner of an item to determine the item's disposition; to repair it at a reasonable cost and be able to have a third party of their choosing repair it at a reasonable cost.

Establishing and defending Right to Repair is a foundational effort to assert that waste prevention activities like repair should take precedence in policy and practice to recycling or disposal. This proposal would require manufacturers to make available sufficient service documentation and functional parts, on fair and reasonable terms, to owners of the equipment or products, independent service and repair facilities, and service dealers. This proposal would establish an "ease of repair" requirement on manufacturers such that products can be reasonably disassembled and reassembled by the consumer to replace consumable or defective parts.

This proposal would also expand the category of products to which these provisions apply to explicitly include software, digital diagnostic tools, and other (digital) documentation necessary to keep the manufactured product in good working order.

Additionally, if a manufacturer stops selling or supporting an item: all of the documentation necessary to independently maintain that item -- technical diagrams, schematics, bills of material and other documentation necessary to continue to keep the item in service -- should become public domain.

Would this policy proposal require legislation, or interaction with an agency other than CalRecycle? Legislation is needed to establish Right to Repair, and this proposal comes from AB 1163 (Eggman) copied below.

Possible 2021 Legislative Priority? Yes.

Does this proposal require additional funding or changes to resource allocation?

No.

Proposal(s): The following is the text from AB 1163 (Eggman):

SECTION 1.

Section 1793.03 of the Civil Code is amended to read:

1793.03.

(a) Every manufacturer making an express warranty with respect to equipment or other electronic or appliance products described in subdivision (h), (i), (j), (k), (l), (m), (n), or (o) of Section 9801 of the Business and Professions Code, with a wholesale price to the retailer of not less than fifty dollars (\$50) and not more than ninety-nine dollars and ninety-nine cents (\$99.99), shall make available to owners of the equipment or products, to service and repair facilities, and to service dealers, as defined in subdivision (f) of Section 9801 of the Business and Professions Code, sufficient service literature, at no charge, and functional parts, on fair and reasonable terms, to effect the repair of a product for at least three years after the date a product model or type was manufactured, regardless of whether the three-year period exceeds the warranty period for the product.

(b) Every manufacturer making an express warranty with respect to equipment or other electronic or appliance products described in subdivision (h), (i), (j), (k), (l), (m), (n), or (o) of Section 9801 of the Business and Professions Code, with a wholesale price to the retailer of one hundred dollars (\$100) or more, shall make available to owners of the equipment or products, to service and repair facilities, and to service dealers, as defined in subdivision (f) of Section 9801 of the Business and Professions Code, sufficient service literature, at no charge, and functional parts, on fair and reasonable terms, to effect the repair of a product for at least seven years after the date a product model or type was manufactured, regardless of whether the seven-year period exceeds the warranty period for the product.

(c) This section shall not be construed to require a manufacturer to divulge a trade secret.

(d) For the purposes of this section:

(1) "Fair and reasonable terms" means that the costs and terms, including convenience of delivery, and including rights of use, are equivalent to what is offered by the original equipment or other electronic or appliance manufacturer to an authorized service dealer.

(2) "Trade secret" means anything tangible or intangible or electronically stored or kept that constitutes, represents, evidences, or records intellectual property including secret or confidentially held designs, processes, procedures, formulas, inventions or improvements, secrets of confidentially held scientific, technical, merchandising, production, financial, business, or management information, or anything within the definition of Section 1839(3) of Title 18 of the United States Code.

Policy #14: Beverage Container Recycling, Changes to the Bottle Bill and Support CalRecycle AB 54 Report

Committee: Recycling

Date Adopted: 18 December 2020

Beverage Container Recycling, Changes to the Bottle Bill and Support CalRecycle AB 54 Report, including:

1. Expanding Convenience Zones to 1 mile in urban areas and 5 miles in rural areas, and allowing CalRecycle Director to adjust zones in jurisdictions with unique zoning or siting issues;
2. Limiting Store Exemptions to 35% by jurisdiction or county
3. Allowing Handling Fee payments to recycling centers not on dealers sites, but within the zones;
4. Placing a Cap on Handling fees received by site, zone, and jurisdiction;
5. Allowing Grocers and dealers to receive payment from a recycling center or processor the deposits paid out to a consumer and also receive Handling Fee payments.

These are the initial policy recommendations to help with the overall major reform of the bottle bill. The overall reform and recommendations are to many for the commission to address in the timeframe allowed.

The Commission recommends that the Legislature should not wait for the Commission to review, vet, or make additional recommendations. This commission encourages the Legislature to make substantial changes to the Bottle bill to help Californians redeem their deposits and to promote better recycling practices in the State of California.

Date(s) before full Commission:

The policy topics have been discussed at the following full commission meetings:

- October 2nd, 2002
- November 4th, 2020

The written policy recommendations are being presented to the entire commission for review and approval on December 2nd, 2020

Primary Author(s): Jeff Donlevy

Adopted: 18 December 2020

Background:

Executive Summary from the AB 54 Report to the Legislature - *The*

California Beverage Container Recycling and Litter Reduction Act (Act), signed into law in 1986, established the Beverage Container Recycling Program (BCRP) to reduce litter and increase recycling. The Act established a consumer deposit on beverage containers, known as the California Redemption Value (CRV), and set a goal to achieve an 80 percent recycling rate. Since its enactment, the BCRP has recycled over 400 billion beverage containers through an extensive collection infrastructure and achieved a 76 percent recycling rate in 2018.

There are several statutory provisions that dictate convenience and payments to recyclers. As consumers must be able to redeem their beverage containers in order to receive their CRV, the Act requires that consumers have a convenient means to do so. The current convenience standard of at least one recycling center within one half mile of a supermarket (i.e. convenience zone) has not been updated for more than 30 years and does not consider geographic and population differences across California. The Act also prescribes specific operating requirements for recycling centers that do not allow for flexibility nor consideration of alternative consumer redemption opportunities. At the same time, changes in the global marketplace have caused recycling to be less profitable. As a result of the inability to innovate new recycling opportunities to consumers and respond to market forces, approximately 800 recycling centers have closed since 2016.

In 2013, there were a high of 2,573 recycling centers and convenience zone recycling centers available to California Consumers. The largest provider of convenience zones recycling centers, RePlanet, closed 150 locations in 2017 and filed for bankruptcy in August of 2019, closing the remaining 284 locations and laying off over 750 employees. As of November 2020, there are less than 1,219 recycling centers available to California consumers.

As an example of the dire need for reform, In Humboldt County, as of November 20th, 2020, there is only one certified recycling center for the entire 1,200 square mile county as four other recycling centers have closed in the past six months. In the county, all the grocery stores that would be required to take containers back in store in the absence of having a recycling center in the area, all filed and received exemptions. Based on those exemptions, there is only one dealer in Humboldt County required to redeem deposits “in store.”

Currently, grocers and dealers that redeem consumer deposits in store are not eligible to receive the CRV deposits paid back to consumers, nor are the stores eligible for any additional payments from the funds, as they are not “certified” programs eligible to receive those funds.

In September of 2020, Governor Newsom signed into Law, AB 793. This requires a higher use of post-consumer plastic in the production of new plastic containers. In order to achieve the levels required under AB 793, California will need to have a much higher

Purpose(s): The purpose of these policy recommendation are to:

1. Allow Grocers to get paid from the Beverage Container Recycling Fund for their participation in redeeming consumer deposits;
2. Changing the store exemption from 35% statewide to a maximum of 35% of the stores in a jurisdiction or county;
3. Allow CalRecycle to expand or adjust the half (.5) mile standard in urban areas and three (3) mile standard in rural areas for establishing a convenience zone;
4. Change existing requirement for paying Handling fees from being on a deal site to a recycling center anywhere within the convenience zone;
5. Establish a Cap/Maximum payment of Handling Fee payments to a recycling not to exceed \$10,000 per zone, allow the Handling fees to be split between up to three different recycling centers in the zone if the recycling centers are in different areas of the zone.

Would this policy proposal require legislation, or interaction with an agency other than CalRecycle? Legislation is required

Possible 2021 Legislative Priority? Yes. Legislation and major overhaul of Bottle is needed to help consumers redeem their deposits.

Does this proposal require additional funding or changes to resource allocation?

No, these changes would be funded through the existing Beverage Container Recycling Fund.

Proposal(s):

It is proposed that the following sections of the Bottle Bill be changed:

§14539. (a)(4) A processor shall not pay any refund values, processing payments, or administrative fees to a non certified recycler. A processor may pay refund values, processing payments, or administrative fees to any entity that is identified by the department on its list of certified recycling centers or grocery store with prior written agreement.

§14509.4. "Convenience zone" means either of the following:

(a) The area within a one-half mile radius of a supermarket or different parameters as designated by the Department Director based on the unique needs of challenges of the jurisdiction and agreed upon by the area stores and dealers.

(b) The area designated by the department pursuant to Section 14571.5.

§14571.5. The department may, in a rural region, as identified pursuant to subparagraph (A) of paragraph (2) of subdivision (b) of Section 14571, upon petition by an interested person, do either of the following:

(a)(1) Increase a convenience zone to include the area within a **three** five-mile radius of a supermarket, if the expanded convenience zone would then be served by a single existing certified recycling center or location.

§14526.6. “Supermarket site” means any certified recycling center which redeems all types of empty beverage containers in accordance with Section 14572, ~~and which is located within, or outside and immediately adjacent to the entrance of, or at, or within a parking lot or loading area surrounding, a supermarket which is the focal point of a convenience zone, or a dealer~~ that is located within that zone, and which is accessible to motor traffic.

§14571.6. In any convenience zone where no recycling location has been established which satisfies the requirements of Section 14571, and in any convenience zone which has exceeded the 60-day period for the establishment of a recycling center pursuant to Section 14571.7, all dealers within that zone shall, until a recycling location has been established in that zone, do one of the following:

(a) Submit to the department an affidavit form provided by the department stating that all of the following standards are being met by the dealer:

(1) The dealer redeems all empty beverage container types at **all-open a designated** cash register or one designated location on the dealer’s premises, during all hours that the dealer is open for business.

(2) The dealer has posted signs which meet the size and location requirements specified in subdivision

(b) of Section 14570, and which conform to paragraph (2) of that subdivision.

(3) The dealer is delivering, or having delivered, all empty beverage containers received from the public to a certified recycling center or processor for recycling. Dealer will be paid applicable CRV payments by certified recycling center or Processor and applicable Handling fee payments by the Department.

§14571.8.(5)(d) The total number of exemptions granted by the director under this section shall not exceed 35 percent of the total number of convenience zones in a jurisdiction or county identified pursuant to this section.

§14585. (a) The department shall adopt guidelines and methods for paying handling fees to **supermarket sites** recycling centers, nonprofit convenience zone recyclers, or rural region recyclers to provide an incentive for the redemption of empty beverage containers in convenience zones. The guidelines shall include, but not be limited to, all of the following:

(1) Handling fees shall be paid on a monthly basis, in the form and manner adopted by the department. The department shall require that claims for the handling fee be filed with the department not later than the first day of the second month following the month for which the handling fee is claimed as a condition of receiving any handling fee A maximum of \$10,000 per

month in Handling fee payments will be made per zone. A maximum of \$50,000 per month per jurisdiction up to 200,000 residents. \$200,000 per month per jurisdiction up to 1,000,000 residents.

(c)(1) The department shall make handling fee payments to more than one certified recycling center in a convenience zone. Handling fee payments may be split between up to three (3) recycling centers in a convenience zone or jurisdiction If a dealer is located in more than one convenience zone, the department shall offer a single handling fee payment to a **supermarket-site recycling center**.

§14588.1. (a) As used in this chapter, "unfair and predatory pricing" means the payment to consumers by a **supermarket-site** recycling center, that receives handling fees for the redemption of beverage containers, in an amount that exceeds the following:

(1) The California refund value for that container. Sites paying more than California refund value cannot receive Handling fees.

Schedule for Implementation: The time required for implementation is one year for legislation and up to 24 additional months for CalRecycle to re-write regulations and procedures to implement.

It will take until January 2024 for these changes to help more consumers redeem their deposits.

Related Issues:

None

Policy #15: What is Recyclable?

Committee: Recycling

Primary Author(s): Jeff Donlevy, and Nick Lapis

Date(s) before full Commission:

The policy topics have been discussed at the following full commission meetings:

- October 7nd, 2020 – informational review & discussion only
- December 16th, 2020

Adopted: 18 December 2020

Purpose(s): The purpose of this policy is to ensure that residential and commercial recycling collection programs only collect material that is capable of being recycled through the collection and processing process. The recommendation is to have the State of California identify one Statewide Standardized Acceptance List of Recyclable items for California residential and commercial collection programs. This acceptance list would identify and allow products that meet the criteria listed in PRC 42370.2. be allowed to be marketed and labeled as “Recyclable” when sold in California and to use the “chasing arrows” recycling symbol.

In addition to reducing contamination in the solid waste system, this proposal allows consumers to make informed purchasing decisions based on the recyclability of the items they purchase, which will also send a signal upstream to manufacturers to choose recyclable packaging choices.

Local programs are encouraged not to accept materials that are not separated into marketable grades, shipped to a reprocessing facility, and reused as raw material for new products.

This policy does not intend to prevent individual cities, counties, or solid waste service providers from including additional material, not identified on the statewide list, in their recycling collection programs, so long as the programs are collecting, segregating, and marketing the material to a facility that will reprocess and convert the material into feedstock for new products.

Manufacturers who wish to demonstrate that their product has become compliant with the recyclability requirement or has a clearly defined path for meeting these requirements in the short term will be provided a pathway to submit that information to the commission for inclusion on the list.

Would this policy proposal require legislation, or interaction with an agency other than CalRecycle? Legislation.

Possible 2021 Legislative Priority? Yes. Implementation of the policy will help improve material quality, reduce waste, contamination of material, reduce greenhouse gases and environmental damage caused by shipping non-recyclable material to other destinations that may have lower environmental and worker safety requirements than California. This policy will also help ensure a better supply of recyclable material for end users and help companies looking for a steady supply of material to invest in recycling and reprocessing facilities in California.

Does this proposal require additional funding or changes to resource allocation?

If CalRecycle were to be charged with promulgating regulations and maintaining a list of “recyclable” products, this proposal would require both one-time and ongoing costs.

If the responsibility for identifying recyclable products remains with the Statewide Commission on Curbside Recycling and Market Development, then no additional resources would be required.

Proposal(s):

Regulatory Basis: The Sustainable Packaging for the State of California Act of 2018 ([Public Resources Code 42370.2](#)) defines the seven criteria for determining whether food service packaging in California is “recyclable” Table 1 shows the seven criteria, the numerical standards and the sources of data to be employed. **Qualification Process:** A fact-based process with quantified metrics must be employed to determine whether a product meets the minimum standard for each criteria. A traceable account with original data sources must be provided to prove claims. Data may be no older than 1 year when submitted.

Initial Recommended Statewide List: The Committee and Commission members have reviewed a California Recyclability Screening and a MRF Survey of 76 California MRFs to help determine the initial recommended list of items to be on the Statewide “What is Recyclable” list. Figure 1. There are additional items, currently identified as “Local Adds”, that will need additional analysis to determine if those items should qualify to be on the final Statewide “What is Recyclable” list. **Analysis should be completed and included in the Commission’s final report in July 2021.**

Temporary Acceptance: A manufacturer, or other stakeholder, may submit evidence showing that either binding purchase agreements or regulatory changes (like minimum content requirements) are in place to ensure compliance with the criteria for recyclability. The Commission or CalRecycle, may, based on this data, allow a product to be temporarily included on the list of recyclable items.

Labeling: California's Environmental Representations Law (Business and Professions Code Sections 17580 and 17580.5) currently prohibit the use of certain terms, including “recycled” and “recyclable,” if they are in violation of the Federal Trade Commission’s Green Guides. We suggest that this be expanded to include use of “chasing arrows”

and go beyond the requirements of the Green Guides to ensure that only products that are truly recyclable can make this environmental claim.

Schedule for Implementation: The time required for implementation will take two years for cities and hauling companies to re-work franchise and collection agreements to modify lists of acceptable items.

Related Issues:

None

Table 1: Quantified Metrics for California Recyclability Criteria

Criteria	Data Source & Evidence Required	Minimum “Recyclable” Threshold
1 – Accepted in Local Recycling Programs	Direct survey of local recycling programs.	Item accepted by local recycling programs serving a substantial majority (60%) of consumers or communities where the item is sold.
2 – Accepted by Curbside Recycling Service Providers	Direct Survey of All CA’s Material Recovery Facilities (MRFs). ¹	Accepted by 75% of MRFs or a demonstration of 75% acceptance.
3 – Separated by MRFs into Individual Bales	Direct Survey of All CA MRFs or reference to credible study with traceable data.	Separated by 75% of MRFs or demonstration that a majority of facilities have committed to segregating material.
4 – Processed into a manufacturing input	Identification of sufficient domestic or Basel Convention-approved processors with capacity to process the collected material. Listing of material processors, location and capacity required.	Processing capacity for 75% of the product waste generated in California.

¹ October 2020: Current MRF count in California is 76. It is recommended that CalRecycle maintain a current list of MRFs for use in qualification process.

5 – Used to make new products	Evidence that the processors sell material to make new products, not to make fuel, burn for energy or other non-manufacturing uses.	Evidence for the processors in #4.
6 – Has market demand & maintains value	One year of data showing sufficient and consistent market value for product waste across the state. Intermittent or seasonal market demand is not acceptable. In lieu of one year of data, proof of new long-term contract offers made statewide will be considered.	Sufficient value for material should be equal or greater than processing cost minus disposal cost. Sufficient value is currently about 3-4 cents/lb. based on statewide averages. ²
7 – Not toxic & does not contaminate product	Products and/or additives that have a negative impact on human health or the environment are prohibited.	Does this item contaminate other material bales and hurt their values?

Committee: Recycling

Policy Title / Subject: Anti-Green Washing Policy - Determine and Identify “What is Recyclable” in California.

Primary Author(s): Jeff Donlevy, and Nick Lapis

Date(s) before above Committee:

The Recycling Committee has reviewed and discussed the policy recommendations below, and solicited stakeholder input, on the following dates:

- September 9th, 2020
- September 18th, 2020
- September 25th, 2020
- November 13th, 2020

Date(s) before full Commission:

The policy topics have been discussed at the following full commission meetings:

- October 7nd, 2020– informational review & discussion only
- December 16th, 2020

Status: Draft Proposal

² Based on statewide MRF processing cost of \$120/ton and [landfill cost of \\$45/ton \(CalRecycle 2015 data\)](#), the material value must be at least \$75/ton or 3.75 cents/lb.

Purpose(s): The purpose of this policy is to ensure that residential and commercial recycling collection programs only collect material that is capable of being recycled through the collection and processing process. The recommendation is to have the State of California identify one Statewide Standardized Acceptance List of Recyclable items for California residential and commercial collection programs. This acceptance list would identify and allow products that meet the criteria listed in PRC 42370.2. be allowed to be marketed and labeled as “Recyclable” when sold in California and to use the “chasing arrows” recycling symbol.

In addition to reducing contamination in the solid waste system, this proposal allows consumers to make informed purchasing decisions based on the recyclability of the items they purchase, which will also send a signal upstream to manufacturers to choose recyclable packaging choices.

Local programs are encouraged not to accept materials that are not separated into marketable grades, shipped to a reprocessing facility, and reused as raw material for new products.

This policy does not intend to prevent individual cities, counties, or solid waste service providers from including additional material, not identified on the statewide list, in their recycling collection programs, so long as the programs are collecting, segregating, and marketing the material to a facility that will reprocess and convert the material into feedstock for new products.

Manufacturers who wish to demonstrate that their product has become compliant with the recyclability requirement or has a clearly defined path for meeting these requirements in the short term will be provided a pathway to submit that information to the commission for inclusion on the list.

Would this policy proposal require legislation, or interaction with an agency other than CalRecycle? Legislation.

Possible 2021 Legislative Priority? Yes. Implementation of the policy will help improve material quality, reduce waste, contamination of material, reduce greenhouse gases and environmental damage caused by shipping non-recyclable material to other destinations that may have lower environmental and worker safety requirements than California. This policy will also help ensure a better supply of recyclable material for end users and help companies looking for a steady supply of material to invest in recycling and reprocessing facilities in California.

Does this proposal require additional funding or changes to resource allocation?

If CalRecycle were to be charged with promulgating regulations and maintaining a list of “recyclable” products, this proposal would require both one-time and ongoing costs.

If the responsibility for identifying recyclable products remains with the Statewide Commission on Curbside Recycling and Market Development, then no additional resources would be required.

Proposal(s):

Regulatory Basis: The Sustainable Packaging for the State of California Act of 2018 ([Public Resources Code 42370.2](#)) defines the seven criteria for determining whether food service packaging in California is “recyclable” Table 1 shows the seven criteria, the numerical standards and the sources of data to be employed. **Qualification Process:** A fact-based process with quantified metrics must be employed to determine whether a product meets the minimum standard for each criteria. A traceable account with original data sources must be provided to prove claims. Data may be no older than 1 year when submitted.

Initial Recommended Statewide List: The Committee and Commission members have reviewed a California Recyclability Screening and a MRF Survey of 76 California MRFs to help determine the initial recommended list of items to be on the Statewide “What is Recyclable” list. Figure 1. There are additional items, currently identified as “Local Adds”, that will need additional analysis to determine if those items should qualify to be on the final Statewide “What is Recyclable” list. Analysis should be completed and included in the Commission's final report in July 2021.

Temporary Acceptance: A manufacturer, or other stakeholder, may submit evidence showing that either binding purchase agreements or regulatory changes (like minimum content requirements) are in place to ensure compliance with the criteria for recyclability. The Commission or CalRecycle, may, based on this data, allow a product to be temporarily included on the list of recyclable items.

Labeling: California's Environmental Representations Law (Business and Professions Code Sections 17580 and 17580.5) currently prohibit the use of certain terms, including “recycled” and “recyclable,” if they are in violation of the Federal Trade Commission’s Green Guides. We suggest that this be expanded to include use of “chasing arrows” and go beyond the requirements of the Green Guides to ensure that only products that are truly recyclable can make this environmental claim.

Schedule for Implementation: The time required for implementation will take two years for cities and hauling companies to re-work franchise and collection agreements to modify lists of acceptable items.

Related Issues:

None

Table 1: Quantified Metrics for California Recyclability Criteria

Criteria	Data Source & Evidence Required	Minimum “Recyclable” Threshold
1 – Accepted in Local Recycling Programs	Direct survey of local recycling programs.	Item accepted by local recycling programs serving a substantial majority (60%) of consumers or communities where the item is sold.
2 – Accepted by Curbside Recycling Service Providers	Direct Survey of All CA’s Material Recovery Facilities (MRFs). ³	Accepted by 75% of MRFs or a demonstration of 75% acceptance.
3 – Separated by MRFs into Individual Bales	Direct Survey of All CA MRFs or reference to credible study with traceable data.	Separated by 75% of MRFs or demonstration that a majority of facilities have committed to segregating material.
4 – Processed into a manufacturing input	Identification of sufficient domestic or Basel Convention-approved processors with capacity to process the collected material. Listing of material processors, location and capacity required.	Processing capacity for 75% of the product waste generated in California.
5 – Used to make new products	Evidence that the processors sell material to make new products, not to make fuel, burn for energy or other non-manufacturing uses.	Evidence for the processors in #4.
6 – Has market demand & maintains value	One year of data showing sufficient and consistent market value for product waste across the state. Intermittent or seasonal market demand is not acceptable. In lieu of one year of data, proof of new	Sufficient value for material should be equal or greater than processing cost minus disposal cost. Sufficient value is currently about 3-4 cents/lb. based on statewide averages. ⁴

³ October 2020: Current MRF count in California is 76. It is recommended CalRecycle maintain a current list of MRFs for use in qualification process.

⁴ Based on statewide MRF processing cost of \$120/ton and [landfill cost of \\$45/ton \(CalRecycle 2015 data\)](#), then material value must be at least \$75/ton or 3.75 cents/lb.

	long-term contract offers made statewide will be considered.	
7 – Not toxic & does not contaminate product	Products and/or additives that have a negative impact on human health or the environment are prohibited.	Does this item contaminate other material bales and hurt their values?

Statewide Recommendation

What is Recyclable Statewide in California? Survey Results

15 Consumer Item Types passed the criteria requirements across the state:

- | | |
|---|---|
| <p><u>Paper Products (8):</u></p> <ul style="list-style-type: none"> • Mail • Paper Mailing Pouches • Kraft Bags • Magazines • Newspaper • OCC (old corrugated cardboard) • Home Office Paper • Paperboard Boxes (e.g. cereal, tissue, not coated) <p><u>Glass (2):</u></p> <ul style="list-style-type: none"> • Bottles • Jars | <p><u>Metal (2):</u></p> <ul style="list-style-type: none"> • Aluminum cans • Steel cans <p><u>Plastic (3):</u></p> <ul style="list-style-type: none"> • #1 PET Bottles (Narrow necks – no non-recyclable shrink sleeves or other non-recyclable components) • #2 HDPE Bottles – Natural (Narrow necks – includes jugs – no non-recyclable shrink sleeves or other non-recyclable components) • #2 HDPE Bottles – Color (Narrow necks – includes jugs – no non-recyclable shrink sleeves or other non-recyclable components) |
|---|---|

What is Recyclable Statewide in California? Local Adds

Item Types for Discussion

- | | |
|---|--|
| <p><u>Paper Products:</u></p> <ul style="list-style-type: none"> • Cartons – Local Add • Pizza Boxes – Local Add • Shredded Paper – Local Add • Phone Books – Local Add | <p><u>Metal:</u></p> <ul style="list-style-type: none"> • Aluminum Foil • Pots & Pans <p><u>Plastic:</u></p> <ul style="list-style-type: none"> • PET #1 Thermoforms • PET #1 Jars and Rigid • PP #5 Bottles • PP #5 Rigid containers, tubs and Cups |
|---|--|

Collection Programs can **add additional items** that are sorted and marketed as items to be recycled, and not marketed as an “allowable contaminant” in other acceptable grades of material.

Policy #16: Design for Recyclability: Plastic Container Labels and Shrink Sleeves

Committee: Recycling

Date(s) before full Commission: November 4, 2020

Primary Author(s): Jan Dell and Nick Lapis

Approved: 18 December 2020

Background: Polyethylene terephthalate (PET) #1 and high density polyethylene (HDPE) #2 bottles and containers have strong recyclability potential in California, but some types of non-essential full body shrink sleeves and other labels are reducing recovery and are negatively impacting the economic viability of material recovery facilities (MRFs) and plastic reprocessors. A comprehensive description is given in the “**Background Detail and Technical Basis**” section below.

Purpose(s): The purpose of this policy recommendation is to increase bottle and container recovery and improve the technical and economic recyclability of plastic bottles by requiring product companies to only use labels and shrink sleeves that do not inhibit recycling.

There are wide-ranging benefits of this policy recommendation: ease of recycling for consumers, reduced contamination for material recovery facilities (MRFs), increased bale quality and value for MRFs, improved technical and economic processing for plastic reprocessors, increased recovery of plastic bottles and reduction of plastic waste to landfills. There are no costs to consumers, MRFs, plastic reprocessors, or city or state governments. Product companies’ ability to sell products in plastic bottles is not impacted, nor are there restrictions on their customers’ ability to purchase and consume the contents of the plastic bottles.

Would this policy proposal require legislation, or interaction with an agency other than CalRecycle? Yes. This would require a statutory change.

Possible 2021 Legislative Priority? Yes. Implementation of the policy would quickly increase beverage bottle recycling and reduce waste.

Does this proposal require additional funding or changes to resource allocation?

No, this approach would not require taxpayer funds other than promulgation of the legislation.

Proposal(s):

It is proposed that only products packaged in plastic bottles and containers with non-harmful labels and shrink sleeves be sold in California. The primary criteria for defining acceptable labels and shrink sleeves will be the Association of Plastic Recyclers Design® Guide. CalRecycle will also have authority to prohibit additional specific labels or shrink sleeves if California recycling and reprocessing companies provide evidence that an APR-approved item is detrimental to their operations. For example, if a “washable ink” label requires excessive fresh water for processing, CalRecycle has the authority to prohibit use of that label in the state.

Exceptions to the policy will be made for medical or other products that require special labels to maintain product safety.

Note that tamper-proof plastic wraps on lids that must be removed for opening products would continue to be allowed.

Schedule for Implementation: The time required for implementation is eighteen months. The design changes address optional elements and are not essential to the function of the product. Commercially available alternatives exist and can be adopted by product companies within a year. Product companies are aware of the problematic labels and shrink sleeves have been identified in APR Design® Guides and other existing voluntary guidelines for years.

Many product companies have made commitments to eliminate problematic elements that prohibit recycling via their voluntary pledges to the New Plastics Economy Global Commitment¹. Therefore, the product companies have shown that they understand that change is needed and the companies are not in a position to oppose legislation requiring the design changes.

Related Issues:

This policy recommendation supports the recycled content requirements set forth in California Law AB 793.

Background Detail and Basis:

According to plastic and recycling industry reports detailed below, contaminated plastic bottle and container bales is a top concern for technical and economic recycling. While voluntary design guidelines have existed for years, many product companies do not follow the guidelines and cause significant harm to recovery and recycling of plastic bottles.

Many product companies are increasingly using full body shrink sleeves and labels that are inconsistent with California’s recycling and processing infrastructure. Some designs are known to prevent proper sortation of the bottles in MRFs or harm operations of PET reclaimers.² Figure 1 shows an example of a Full Body Shrink Sleeve Label on a PET

¹ [New Plastics Economy Global Commitment](#)

² Plastics Recycling Update, “[Commercialization conundrum](#),” March 6, 2018.

bottle. Figure 2 shows an example of a Full Body Shrink Sleeve Label on a HDPE bottle.

Figure 1: Expanded Image of Full Body PETG Shrink Sleeve Label on PET #2 Bottle



Figure 2: Expanded Image of Full Body Shrink Sleeve Label on HDPE #2 Bottle



This policy requires that product companies must change to labels that do not harm sortation and plastic recycling/reprocessing and do not require removal by customers. Alternative, non-harmful labels are commercially available.³

Harms Caused by Full Body Shrink Sleeves

Several types of full body shrink sleeves on PET #1 and HDPE #2 bottles make them not sortable by optical scanners at MRFs. When the bottles are not correctly sorted, they may contaminate another material stream or be lost to the waste “residuals” stream.

PETG and PVC shrink sleeves are harmful to PET bottle recyclers because the PETG and PVC shrink sleeves cannot be separated in mechanical recycling water “sink-float” tanks. PETG and PVC materials have a specific gravity greater than one, so they sink along with PET (1.38 sp. gr.) in the tank. But the PETG and PVC labels have a lower melting point than PET. When the combined flake mixture is melted to form resin, the PETG or PVC melts first, causes clumps and harms PET drying equipment. Experts report that shrink sleeve labels can also bleed ink into wash water and stain flakes,

³ Plastics Recycling Update, “[How a PET shrink sleeve label passed recyclability testing](#),” November 4, 2019.

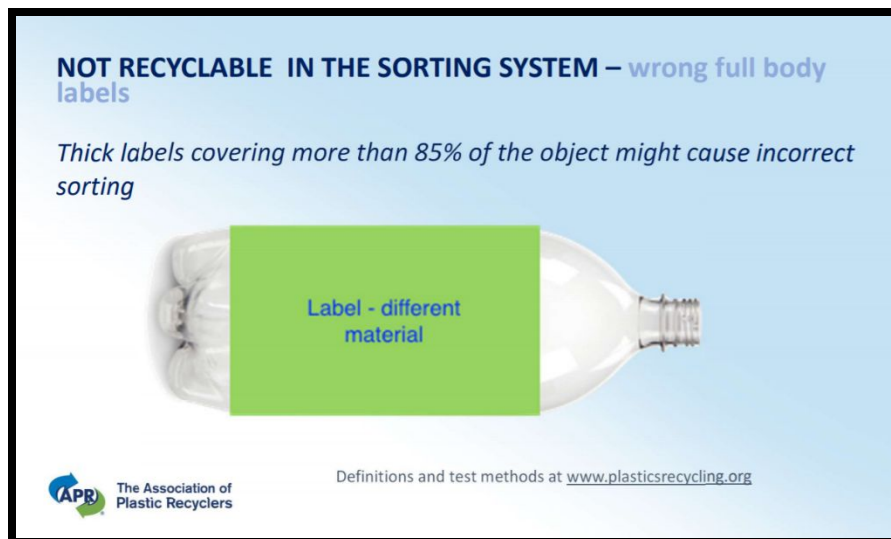
reducing the quality of the recycled plastic.⁴ Mechanical de-labelers are expensive and not effective. The PETG and PVC shrink sleeve label contamination causes material yield loss.

Recycling and Retail Industry Design Guidelines

Use of full body shrink sleeves is prohibited in the Design® Guides published by the Association of Plastic Recyclers (APR) and Walmart⁵ for recyclable plastic products. APR and other recycling organizations have clearly communicated to product designers that certain types of full body shrink sleeves should not be employed on products, yet many companies ignore the guidance and put the burden on consumers to remove the shrink sleeve.

Figure 3 shows the APR guidance that labels on bottles exceeding 85% side coverage may cause the item to be sorted incorrectly.

Figure 3: Not Recyclable Guidance by APR on Label Coverage⁶



NAPCOR is the trade association for the PET Packaging Industry in the United States, Canada and Mexico.⁷ In the 2017 Report on Postconsumer PET Container Recycling Activity in 2017, NAPCOR identified “design for recyclability” concerns including “labels that are difficult-to-remove or separate from PET or that block auto sort function; barrier layers added to PET to preserve product integrity and extend shelf-life; and metal integrated into PET packages, whether in closures, closure rings, can tops, or pump

⁴ Plastics Recycling Update, “[Commercialization conundrum](#).” March 6, 2018.

⁵ Walmart, “[The Recycling Playbook](#)”, Version 10/25/2019.

⁶ Association of Plastic Recyclers, 2019 Web Seminar Education Series, “[HDPE and PP Packaging](#)”, September 12, 2019. [Slides and audio recording available on APR website.](#)

⁷ [NAPCOR website.](#)

springs.”⁸ To improve recovery and recycling of PET bottles, NAPCOR identified “recycling-compatible PET container design” as a key element.

The Association of Plastic Recyclers (APR) publishes a design guide to “help package design engineers at consumer brand companies and converters create packaging that is fully compatible with plastics recycling systems in North America.” The APR Design® Guide⁹ provides detailed specifications to plastic product manufacturers, including requirements for label coverage and materials. In several 2019 public webinars, APR provided design guidance to product companies.¹⁰ APR notes that contamination in the recycling stream by poor package design impacts recyclers and the brands themselves. Noncompatible sleeve labels and pressure sensitive labels were identified as two top problematic elements.

ASTRX is an initiative of The Recycling Partnership and the Sustainable Packaging Coalition.¹¹ In 2019, Applying Systems Thinking to Recycling (ASTRX) collected information on material flows by interviewing MRFs that sort recyclable materials and reprocessors that aggregate and convert materials and published the ASTRX Material Flow Study.¹² “The objective was to learn whether there are packaging types, materials or contaminants that present significant challenges for MRFs and the different material-type reprocessors, where specifically within the system they cause problems, and why.”¹³ Full body shrink sleeves were identified as a top problem to both MRFs and plastic reprocessors. In MRFs, full shrink sleeves were reported to cause sortation issues and degradation of value of PET and HDPE bales. Plastic reprocessors reported that full shrink sleeves are causing “contamination in plastic bales that decreases bale yield; operational issues with de-labeler equipment requiring a lot of maintenance; sortation issues: the sorter sees the label and thinks it’s opaque and rejects the bottle.”

Plastic Recycling Corporation of California (PRCC): In the 2017 PRCC Case Study: Summary of Research Methods & Findings,¹⁴ factors impacting bale quality included “full-wrap labels and non-compatible barrier bottles that are challenging to sort and separate in collection and processing and contaminant material such as paper and other plastic types (PLA, PVC, polystyrene) in the bales.”

⁸ [NAPCOR Report on Postconsumer PET Container Recycling Activity in 2017](#)

⁹ [The Association of Plastic Recyclers \(APR\) Design® Guide for Plastics Recyclability](#)

¹⁰ Association of Plastic Recyclers, [2019 Web Seminar Education Series](#).

¹¹ [ASTRX website](#), “About”.

¹² ASTRX, “[ASTRX Review of Material Flow at MRFs and Reprocessors](#)”, 2019.

¹³ ASTRX, “[ASTRX Review of Material Flow at MRFs and Reprocessors](#)”, 2019.

¹⁴ [2017 PRCC Case Study: Summary of Research Methods & Findings](#)

Policy #17: Design for Recyclability: Beverage Containers

Committee: Recycling

Date(s) before full Commission: November 4, 2020

Primary Author(s): Jan Dell and Nick Lapis

Adopted: 18 December 2020

Background: Polyethylene terephthalate (PET) #1 bottles have strong recyclability potential in California, but two non-essential, optional design elements are reducing recovery and are negatively impacting the economic viability of material recovery facilities (MRFs) and plastic reprocessors. A comprehensive description is given in the “**Background Detail and Technical Basis**” section below.

Purpose(s): The purpose of this policy recommendation is to increase in-state bottle reclaiming and improve the technical and economic recyclability of plastic bottles by requiring product companies to eliminate two problematic, non-essential design elements. The specific design element changes are:

- (1) Require use of only clear plastic for PET beverage bottles.
- (2) Eliminate metal components on plastic beverage bottles.

There are wide-ranging benefits of this policy recommendation: ease of recycling for consumers, reduced contamination for material recovery facilities (MRFs), increased bale quality and value for MRFs, improved technical and economic processing for plastic reprocessors, increased recovery of plastic bottles and reduction of plastic waste to landfills. There are no costs to consumers, MRFs, plastic reprocessors, or city or state governments. Product companies’ ability to sell products in plastic bottles is not impacted, nor are there restrictions on their customers’ ability to purchase and consume the contents of the plastic bottles.

Would this policy proposal require legislation, or interaction with an agency other than CalRecycle? Yes, partially. A prohibition on these design elements would require legislation but creating differential processing fees for different uses of the same resin can be done under existing authority.

Possible 2021 Legislative Priority? Yes. Implementation of the policy would quickly increase beverage bottle recycling and reduce waste.

Does this proposal require additional funding or changes to resource allocation?

There are two strategies in this policy this policy:

- 1) Prohibition of the two design elements: This approach would not require taxpayer funds other than promulgation of the legislation.
- 2) Bifurcation of the processing fee paid by beverage manufacturers, with a separate fee for clear PET and colored PET. This might bring in additional revenue into the BCRF.

Proposal(s):

It is proposed that policies be adopted to achieve the following:

- (1) Require use of only clear plastic for PET beverage bottles.
- (2) Eliminate metal components on plastic beverage bottles.
- (3) Bifurcate the processing fee paid by beverage manufacturers for different colors of the same resin, if some colors are deemed to have a significantly higher cost of recycling.

Schedule for Implementation: The time required for implementation is one year. Product companies are already compliant with the policies in other countries. The design changes address optional elements and are not essential to the function of the product. Commercially available alternatives exist and can be adopted by product companies within a year. Product companies are aware of the problematic elements because the elements have been identified in existing voluntary guidelines.

Related Issues:

This policy recommendation supports the recycled content requirements set forth in California Law AB 793 by increasing the supply of readily recyclable RPET.

Background Detail and Basis:

1. Use of Clear Resin Only for PET Bottles

Use of only clear PET will improve collection, sortation and ultimate recovery of PET bottles in California.

Colored PET bottles have negligible market demand and are a serious source of contamination in PET bottle bales.¹ In a 2019 study carried out by PRCC in California,² PRCC “asked reclaimers whether adding a clear-only bale would improve their yields, and they felt it would.” The colored PET bottles also cause valuable clear PET bottles to be inadvertently disposed. In the 2019 study, PRCC stated: “During the bale analysis, project leaders saw colored PET was one of the areas where a lot of clear PET loss was occurring. That’s because colored PET makes up a high percentage of what’s removed from the bales, so more clear PET escapes with colored PET than with other contaminants.”

¹ [Slipping Through the Cracks](#)”, Resource Recycling, Winter 2020

² [“Slipping Through the Cracks”](#)”, Resource Recycling, Winter 2020.

In the 2019 ASTRX Material Flow Study,³ colored PET was identified by a plastic processor as having “low market demand and value.” The study quoted a plastic processor: “I get more and more frustrated with colored PET. No one wants it, and people think it’s HDPE so they salt and pepper it into our bales. Nobody wants to buy it.”

Legal Precedence & Company Compliance on Clear PET Bottles: South Korea has enacted a legal requirement for clear PET bottles to improve recycling.⁴ In Japan, beverage companies voluntarily stopped using colored PET bottles in 2001 to improve recycling. The same global beverage companies that market products in those countries also market products in California. The global beverage companies have complied by changing product design, proving that it is possible to do in California without hardship.

- **South Korea:** As part of South Korea’s goal of reducing its plastic waste by half and doubling recycle rates from 34% to 70%, the country banned the use of colored PET, PVC and labels that cannot be easily removed during the recycling process. Violators of the regulations will be subject to suspension of sales, or a penalty of up to \$US 857,832.⁵
- **Japan:** In 2001 when the recycling rate was 31%, beverage companies voluntarily stopped production of colored plastic bottles to facilitate recycling.⁶ This change has contributed to the increase in recycling of plastic bottles in Japan to 85%.⁷
- **Asia:** A study showed that a change from color PET to transparent PET will significantly increase the value of the plastic in the after-use market.⁸

Figure 1 shows colored plastic PET bottles sold in California. Figure 2 shows the same products sold in clear PET bottles in Japan.

³ ASTRX, “[ASTRX Review of Material Flow at MRFS and Reprocessors](#)”, 2019.

⁴ Food Navigator-Asia, “[No colour, No PVC: South Korea bans hard-to-recycle plastic materials for F&B packaging](#),” (Feb 19, 2020)

⁵ Food Navigator-Asia, “[No colour, No PVC: South Korea bans hard-to-recycle plastic materials for F&B packaging](#),” (Feb 19, 2020)

⁶ Japan Times, “[Makers to can colored plastic bottles](#),” April 3, 2001.

⁷ Financial Times, “[Japan Faces Up to Its Plastic Problem](#),” July 22, 2020.

⁸ BeverageDaily.com, “[Transparent in the new green: Coca-Cola rolls out Sprite clear bottles to seven APAC countries](#),” July 7, 2020.

Figure 1: Colored Plastic PET Bottles Sold in California



Figure 2: Clear Plastic PET Bottles Sold in Japan



2. Elimination of Metal Components on Plastic Bottles

Use of only plastic components on PET bottles will improve collection, sortation and ultimate recovery of PET bottles in California. In plastic processing operations, magnets don't move the metal outside the container and metal can break the shredders.

NAPCOR is the trade association for the PET Packaging Industry in the United States, Canada and Mexico.⁹ In the 2017 Report on Postconsumer PET Container Recycling Activity in 2017, NAPCOR identified “design for recyclability” concerns including “**metal integrated into PET packages, whether in closures, closure rings, can tops, or pump springs.**”¹⁰

Association of Plastic Recyclers (APR) publishes a design guide to “help package design engineers at consumer brand companies and converters create packaging that is fully compatible with plastics recycling systems in North America.” The APR Design® Guide provides detailed specifications to plastic product manufacturers, including requirements for label coverage and materials. In several 2019 public webinars, APR provided design guidance to product companies.¹¹ APR notes that contamination in the recycling stream by poor package design impacts recyclers and the brands themselves. APR identifies metal components as a top problematic elements for PET recycling.

⁹ [NAPCOR website.](#)

¹⁰ [NAPCOR Report on Postconsumer PET Container Recycling Activity in 2017](#)

¹¹ Association of Plastic Recyclers, [2019 Web Seminar Education Series.](#)

In 2019, Applying Systems Thinking to Recycling (ASTRX) collected information on material flows by interviewing MRFs that sort recyclable materials and reprocessors that aggregate and convert materials and published the ASTRX Material Flow Study.¹² The study found that closures with metal components are problematic for plastic recycling.

(3) Tiered processing fees

Under the state's beverage container recycling program, CalRecycle assesses manufacturers a portion of the net cost of recycling their products. This has historically been split by resin type, but it is clear that there are instances where the same resin might have drastically different recycling costs and the program should reflect that.

¹² ASTRX, "[ASTRX Review of Material Flow at MRFS and Reprocessors](#)", 2019.

Policy #18: Label Restriction to Stop Plastic Bag/Film Contamination in Curbside Recycling

Committee: Recycling

Date(s) before full Commission: 16 December 2020

Primary Author(s): Jan Dell and Jeff Donlevy

Adopted: 18 December 2020

Background: Flexible plastic bag, film, wrap and pouches are a top form of contamination in curbside recycling bins. The flexible plastic materials are harming curbside recycling systems because the materials have no market reclaim value, clog machinery in material recovery facilities (MRFs) and other plastic waste and fiber processors. The plastic bags and film contaminate paper and cardboard bales and lower the quality and material value of the paper bales. Many flexible plastic bags, films, wraps and pouches have a recycle symbol which causes consumer confusion and contributes to contamination.

According to The Recycling Partnership (TRP)¹, more than half of Californians think plastic bags are accepted in their curbside recycling program, regardless of whether plastic bags are actually accepted by their program. TRP found that this behavior is driven by the misunderstanding that the chasing arrows recycle symbol means the item is recyclable curbside and the recycling system will fix mistakes that the residents make.

Since consumers equate the “recycle” word and symbol with what is accepted in curbside recycling bins, the “recycle” word and symbol must be reserved for materials which are accepted in curbside bins and do not cause contamination.

Purpose(s): The purpose of this policy recommendation is to end consumer confusion that plastic bags, wraps, films are recyclable through curbside bins by prohibiting the use of the recycle symbol or word on the product.

There are wide-ranging benefits of this policy recommendation: reduced contamination, reduced worker hazards and operating costs for material recovery facilities (MRFs), increased paper and cardboard bale quality and value for MRFs, and reduction of waste to landfills. There are no costs to consumers, MRFs, or city or state governments. Companies’ ability to sell flexible plastic products is not impacted.

Would this policy proposal require legislation, or interaction with an agency other than CalRecycle? Yes

¹ The Recycling Partnership, [2019 West Coast Contamination Initiative Research Report](#).

Possible 2021 Legislative Priority? Yes. Implementation of the policy would quickly reduce waste and contamination in MRFs.

Does this proposal require additional funding or changes to resource allocation?

No, this approach would not require taxpayer funds other than promulgation of the legislation.

Proposal(s):

It is proposed that flexible plastic bags, films, wraps and pouches cannot be labeled with the recycle word or symbol since the items are not curbside-recyclable materials. The definition of curbside recyclable materials is based on The Sustainable Packaging for the State of California Act of 2018, [Public Resources Code 42370.2](#).

[Products that contain post-consumer recycled content may be labelled accordingly.](#)

Schedule for Implementation: The time required for implementation is one year.

Related Issues:

None

Background:

Scale of Flexible Plastic Waste and Contamination Problem

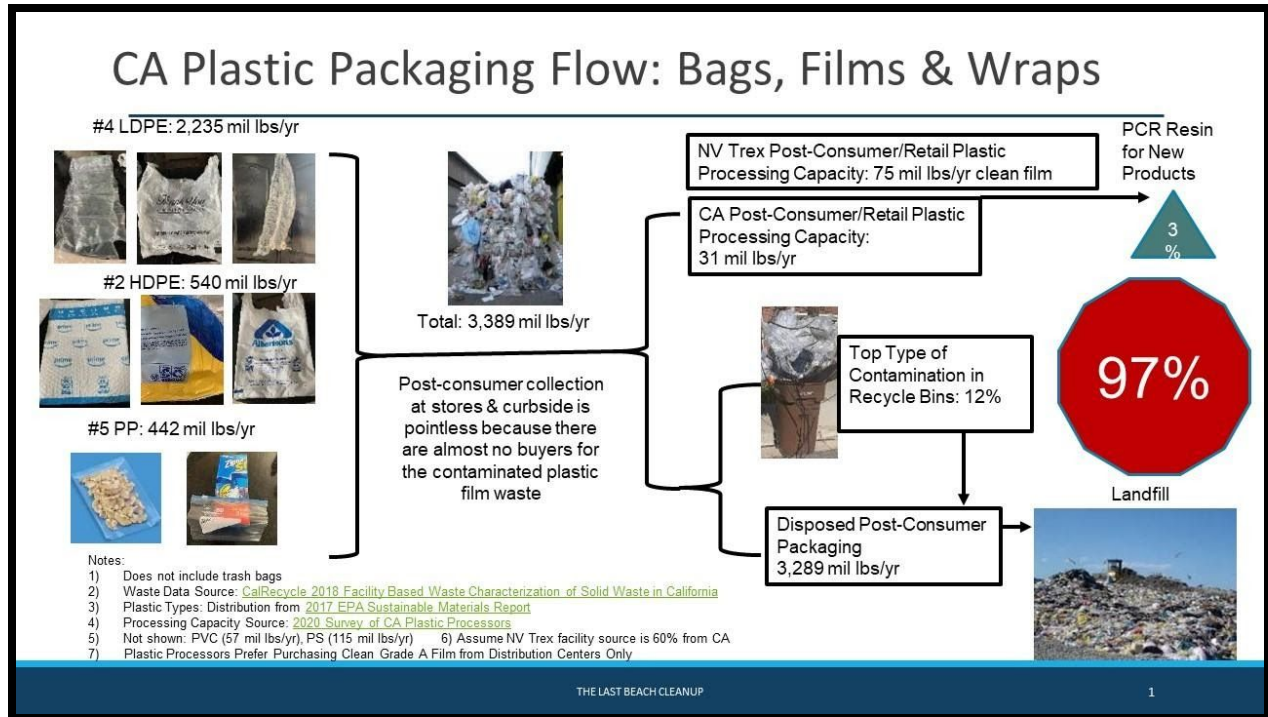
Figure 1 shows the massive scale of flexible plastic waste generation and curbside contamination in California.

In the [2018 Waste Characterization Report](#), CalRecycle reported that 3,389 million lbs/year of plastic bag film and wrap waste was generated. (This amount does not include plastic bags intended for use as trash bags.) In the same report, CalRecycle states that plastic bag, film and wrap contamination is the largest type of contamination in curbside recycling bins at 12% by weight. Based on a survey of plastic film processors in California and nearby Nevada², there is only capacity to recycle about 3% film waste. Therefore, about 97% of the waste is estimated to be disposed. [Store dropoff bins are no longer legally required in California](#) & have largely disappeared, most likely due to the lack of value and buyers for the contaminated, mixed post-consumer waste. The few plastic processors that exist prefer to buy clean Grade A or Grade B plastic film bales generated from the retail distribution centers³.

Figure 1: Flow Chart of California Plastic Bag, Film and Wrap Waste

² [2020 Survey of California Plastic Waste Processors](#) performed by The Last Beach Cleanup.

³ [Motley Fool](#), November 29, 2020



Harms to MRFs:

According to TRP⁴: “Plastic bags cause MRF operators to shut down the recycling line many times a day to cut off bags that have wrapped around equipment. This maintenance shut down reduces throughput for a facility, raises cost of labor to sort materials and maintain equipment, increases waste coming out of the MRF, and puts workers at risk of injury when they are performing maintenance.”

Contamination in Paper Bales:

MRFs and paper/cardboard processors agree that contamination of paper bales by plastic bags/films is a significant, costly problem. Paper/cardboard is a vital, valuable resource that must be recycled to avoid sourcing new feedstock (trees). Plastic contamination lowers the quality and material value of the paper and cardboard bales.

Labels are Causing Consumer Confusion

Figure 2 shows examples of plastic bags, films, wraps and pouches with the “recycle” word or symbol collected in Southern California. While MRFs in Southern California do not accept plastic bags, films, wraps and pouches in curbside bins, the products labeled as “recyclable” has led to consumer confusion. Based on surveys focused in Southern California, TRP⁵, found that the majority of residents think plastic bags are accepted in their curbside recycling program.

Figure 2: Examples of Flexible Plastic Products with Recycle Word or Symbol

⁴ The Recycling Partnership, [2019 West Coast Contamination Initiative Research Report](#)

⁵ The Recycling Partnership, [2019 West Coast Contamination Initiative Research Report](#).

Examples of Bags/Films/Wraps with “Recycle” Labels



Consumer Confusion is Causing Curbside Contamination

Figure 3 shows examples of plastic bags, films, wraps and pouches seen in curbside bins in Southern California in 2020.



Policy #19: Compostable Products Certification and Approval for Composting or Anaerobic Digestion

Committee: Organics

Date(s) before full Commission: *Discussed 02-Dec-20, 16-Dec-20*

Primary Author(s): Commissioners Coby Skye and Nick Lapis

Adopted: 18 December 2020

Background: The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery (CalRecycle), generally requires rigid plastic packaging containers, as defined, sold or offered for sale in this state to meet one of specified criteria.

(1) Senate Bill 1335 (SB 1335) (Allen, 2018) enacts the Sustainable Packaging for the State of California Act of 2018, prohibits a food service facility located in a state-owned facility, operating on or acting as a concessionaire on state property, or under contract to provide food service to a state agency from dispensing prepared food using a type of food service packaging unless the type of food service packaging is on a list that SB 1335 requires CalRecycle to publish and maintain on its Internet Web site that contains types of approved food service packaging that are reusable, recyclable, or compostable. SB 1335 requires CalRecycle to regularly, but no less than once every 5 years, evaluate the list of approved types of food service packaging and would authorize the department to add or remove types of food service packaging to or from the list based on whether the packaging is recyclable, reusable, or compostable. SB 1335 requires, on or before January 1, 2021, CalRecycle to adopt, in consultation with specified state and local agencies, regulations for determining the types of food service packaging that are reusable, recyclable, or compostable, and would prescribe specified criteria for the Director of CalRecycle to consider in determining whether a type of food service packaging is reusable, recyclable, or compostable. SB 1335 requires local governments, solid waste facilities, recycling facilities, and composting facilities to provide information requested by CalRecycle for purposes of developing those regulations.

SB 1335 requires a food service facility to provide to the department reasonable and timely access to contracts, invoices, and purchase orders that include information demonstrating whether the food service packaging material acquired by the food service facility is in compliance with the regulations. SB 1335 requires the Department of General Services or any state agency that is entering into a contract or agreement or

amending an existing contract or agreement with a food service facility to ensure that the relevant contract or agreement conforms to any applicable provisions of the bill and would impose specified additional duties on the Department of General Services in relation to those contracts or agreements.

(2) AB 2287 authorizes the Director of CalRecycle to issue guidelines for determining whether a plastic product is not compliant with these labeling requirements, and whether a plastic product is designed, pigmented, or advertised in a manner that is misleading to consumers. AB 2287 authorizes the CalRecycle to adopt the European Committee for Standardization's standard specification for biodegradable mulch film plastic, or a standard that is equivalent to, or more stringent than, that standard. AB 2287 authorizes the sale of commercial agricultural mulch film, labeled with the term "soil biodegradable" only if CalRecycle adopts the European Committee for Standardization's standard specification, or an equivalent or more stringent standard, and the commercial agricultural mulch film is certified to meet both that standard and the ASTM standard specification for compostability. AB 2287 updates the name of a specified certification for home compost, the name of the organization that developed that certification, and the names of two ASTM standard specifications, and would make other conforming changes.

Purpose(s): To ensure the resilience of the organic waste management system and achievement of California's organic waste diversion goals, this policy strives to establish standards for compostability for all foodservice ware. This policy will help limit contamination that reduces the quality and marketability of compost and other soil amendments.

Would this policy proposal require legislation, or interaction with an agency other than CalRecycle? Partially. CalRecycle has authority to implement these requirements for state facilities under SB 1335, but further legislation would be required to expand these requirements to other products sold in the state.

Possible 2021 Legislative Priority? Yes, 2021 Legislative Priority. The establishment of a market wide standard for composting and anaerobic digestion in California is necessary for the function, vitality, integrity and resilience of the organic waste management system, organic waste processing facilities, and achievement of environmental objectives which protect public health, safety and the environment.

Does this proposal require additional funding or changes to resource allocation? No, this policy recommendation includes a mechanism that regulated entities cover the costs for the administration of the certification process.

Proposal(s): Create a compostable products certification standard.

Compostable plastic foodservice ware or any other items seeking approval for sale as “compostable” pursuant to the Sustainable Packaging for the State of California Act, for the purposes of composting or anaerobic digestion, would be required to meet the following minimum thresholds.

Prior to the complete implementation of SB 1383 and subsequent roll out of composting infrastructure, a compostable product must

- Meet an ASTM Test Method for compostability (D6400 or D6868) as specified in Public Resources Code 42357.
- Obtain certification from the Biodegradable Products Institute (BPI) or equivalent 3rd party certified for meeting compostability and toxicity standards
- Be allowable organic inputs pursuant to the National Organics Programs and CDFA’s Organic Input Materials requirements
- Not include intentionally added perfluorinated compounds
- Be clearly labeled in a manner that is clearly distinguishable upon quick inspection by consumers and solid waste processing facilities. At a minimum, products must be labeled in accordance with standards adopted in other states (including Washington)
- Be explicitly accepted by the compost service provider that provides organics collection for the facility.

After the complete implementation of SB 1383 in 2024, every compostable product sold in the state or listed as an eligible product pursuant to the Sustainable Packaging for the State of California Act shall meet the following additional standards:

- If sufficient field validation has not been completed to confirm that existing ASTM Standard Specifications result in proper degradation under standard California composting conditions, a manufacturer must show approval from no less than 3 reference composting and/or anaerobic digestion (AD) facilities that represent the compost market for at least 750% of the state’s municipal organic waste throughput.
- Parties proposing items for certification being compostable and/or AD must pay a fee for the administration of the item certification process. A separate fee will be required for each product that gets certified, if multiple products are submitted there may be opportunities for discounted fees. Fees will be no more than the cost to administer the testing of the product.

Any producers that wish to have their products certified must provide a complete list of all ingredients in the products with no omissions (no trade secrets). This list can be submitted confidentially for trade secret materials. The appropriate agency would confirm that all listed materials were non-toxic. Inclusion of any ingredients that are suspected to be harmful to the environment or humans will automatically disqualify a product from certification.

CalRecycle would administer the certification and labeling process. Only products that meet the certification criteria will be eligible to be sold in the state or to be advertised with the term “compostable”.

Any products found to be using the label or a substantially similar label without certification will be subject to fines and penalties. Products that are designed, pigmented, or advertised in a manner that is misleading to consumers or those containing additives to increase fragmentation of non-degradable plastics shall also be prohibited.

Related Issues: This certification process is tied closely to the labeling policy proposals.