



## Zero Waste Commission Regular Meeting

Monday, February 24, 2020, 7:00 p.m.  
City of Berkeley Corporation Yard (Ratcliff Building, Willow Room)  
1326 Allston Way, Berkeley

### Meeting Agenda

#### PRELIMINARY MATTERS (30 Minutes):

- 7:00 p.m. Call to Order  
*Chair will call the meeting to order; Secretary will call roll.*
- Christienne de Tournay (Chair)**, appointed by CM Sophie Hahn, District 5  
**Alfred Twu (Vice Chair)**, appointed by former CM Kris Worthington, District 7  
**Annette Poliwka**, appointed by Mayor Jesse Arreguin  
**Ilana Golin**, appointed by CM Rashi Kesarwani, District 1  
**Marilyn McCartney**, appointed by CM Cheryl Davila, District 2  
**Antoinette Stein**, appointed by CM Ben Bartlett, District 3  
**Margo Schueler**, appointed by CM Kate Harrison, District 4  
**Jennifer Lombardi**, appointed by CM Susan Wengraf, District 6  
**David Grubb**, appointed by CM Lori Droste, District 8
- 7:05 p.m. Approve Meeting Agenda
- 7:10 p.m. Public Comment  
*Speakers are generally allotted up to three minutes. Speakers may be allotted less time at the discretion of the Chair.*
- 7:20 p.m. Commissioner Announcements  
*Commissioners may make general announcements; no action will be taken.*
- 7:25 p.m. Approval of Minutes: January 27, 2020 Regular Meeting\*

#### INFORMATION AND ACTION ITEMS (90 minutes):

- 7:30 p.m. Staff Updates:
- Solid Waste and Recycling Transfer Station Feasibility Study
  - SB 1383 Rulemaking
  - Single Use Foodware & Litter Reduction Ordinance Implementation
- 7:35 p.m. 1. Presentation from Miriam Gordon, UPSTREAM
- 8:00 p.m. 2. ACTION ITEM: Elections for Commission Chair and Vice Chair
- 8:10 p.m. 3. Report back from Design Guidelines for New Construction Subcommittee\*
- 8:25 p.m. 4. Discuss ideas to educate public about food waste

- 8:35 p.m. 5. Discussion and possible action to recommend changes to items currently accepted in the compost program (i.e. milk cartons)
- 8:45 p.m. 6. Discussion and possible action to recommend support for state legislation, including SB 54/AB 1080, the California Recycling and Plastic Pollution Reduction Act of 2020 ballot initiative, or any other relevant legislation\*
- 8:55 p.m. 7. Discuss future agenda items
- 9:00 p.m. 8. Action to adjourn the meeting

### COMMUNICATIONS:

*Documents/letters are included as attachments in the agenda packet. Links to online information are included below; printed hard copies of linked items are available at the meeting or upon request.*

**\*Indicates material included in the agenda packet**

**\*\* Indicates material to be available at the meeting**



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Zero Waste Commission Secretary: Heidi Obermeit, Recycling Program Manager, 1201 2<sup>nd</sup> St. Berkeley, CA 94710, 510-981-6357, [hobermeit@cityofberkeley.info](mailto:hobermeit@cityofberkeley.info)

## MINUTES

The meeting was convened at 7:00 p.m. with Chrise de Tournay, Chair, presiding.

### ROLL CALL

Present: Chrise de Tournay, Alfred Twu, Ilana Golin (7:02 p.m. arrival), Marilyn McCartney, Antoinette Stein (7:10 p.m. arrival), Margo Schueler, Jennifer Lombardi, David Grubb  
LOA: Annette Poliwka  
Absent: None

**STAFF PRESENT:** Greg Apa, Heidi Obermeit

**MEMBERS OF THE PUBLIC PRESENT:** 4

**PUBLIC COMMENT:** 1

### ACTIONS TAKEN:

**1. Approval of the January 27, 2020 Regular Meeting Agenda**

M/S/C (Twu/de Tournay) to approve the agenda for the January 27, 2020 regular meeting.

Ayes: Unanimous; Abstain: None; Absent: Poliwka, Golin, Stein

**2. Approval of the November 25, 2019 Meeting Minutes**

M/S/C (de Tournay, Schueler) to approve the November 25, 2019 regular meeting minutes.

Ayes: Unanimous; Abstain: None; Absent: Poliwka

**3. Approval to create a Zero Waste Design Guidelines for New Construction Subcommittee**

M/SC/ (de Tournay/Stein) to approve the creation of a Zero Waste Design Guidelines for New Construction Subcommittee with the following three (3) subcommittee members: Antoinette Stein, Alfred Twu, and David Grubb.

Ayes: Unanimous; Abstain: None; Absent: Poliwka

**4. Approval to extend the meeting by five minutes**

M/S/C (de Tournay/Stein) to extend the meeting by five minutes.

Ayes: Unanimous; Abstain: None; Absent: Poliwka

**5. Adjournment at 9:09 p.m.**

M/S/C (de Tournay/Stein) to adjourn the meeting at 9:09 p.m.

Ayes: Unanimous; Abstain: None; Absent: Poliwka

The next regular meeting of the Zero Waste Commission will be held on Monday, February 24, 2020 at 7:00 p.m. at the City of Berkeley Corporation Yard (Ratcliff Bldg, Willow Rm), 1326 Allston Way.

Respectfully Submitted:

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Heidi Obermeit, Secretary

## Meeting Minutes

Subject: Zero Waste Design Guidelines for New Construction Special Meeting

Tuesday, February 13, 2020, 6:30pm-7:30pm at Au Coquelet Café, 2000 University Ave. Berkeley, CA 94704

The meeting was convened at 6:30 p.m. with Antoinette Stein co-Chair, presiding together with Alfred Twu.

### ROLL CALL & Introductions

Present: David Grubb, Alfred Twu, Antoinette Stein

Absent: NA

MEMBERS OF THE PUBLIC PRESENT: 3 -Glen Kohler, Tajmal Payne , Marilyn McCartney (Marilyn is a ZW Commissioner but she wished to participate for this meeting as a member of the public)

STAFF PRESENT: 0

PUBLIC COMMENT: The Subcommittee decided to allow public to make comments inserted throughout the meeting discussions with no motions to close off public comments.

### ACTIONS TAKEN:

1. **Approval of the February 13, 2020 Special Meeting Agenda** (no changes made) M/S/C (Stein/Grubb) to approve the agenda for the February 13, 2020 Special Meeting.  
Ayes: **Unanimous**; Abstain: None;
2. **Discussion of Zero Waste Division 2018 Metrics Staff Presentation from November 2019 meeting:**  
[https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Solid\\_Waste/2019%20November%2025%20Agenda%20Packet%20Zero%20Waste%20Commission.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Solid_Waste/2019%20November%2025%20Agenda%20Packet%20Zero%20Waste%20Commission.pdf)
  - 2.1. There was important consensus concern by the subcommittee (regarding 2019 Metric slide deck especially slides 7,10, ) that we want to highlight to the full commission. There is consensus concern that:
    - 2.1.1. **Berkeley's Refuse Landfill Tonnage is very high;**  
Commission should consider this fact and try to make future City Council recommendations to reduce Berkeley's waste. At a minimum there is consensus that actions should be taken to reduce the amount of recyclables especially organics from Berkeley's Refuse in accordance and in concert with the new SB 1383 requirements of Berkeley (slide 7) and

**2.1.2. Berkeley has not made progress in increasing recycling, or in reducing Waste/Refuse; *there has been no increase in Diversion for Berkeley since 2013***

Commission should consider this fact and try to make future City Council recommendations to increase recycling from the refuse.--Committee questions for Staff response arose:

- **Does the city save any money on Recycling (recycling and compost market price + compost and recycling hauling costs) vs Landfilling Tonnage (tipping fee + hauling costs)**
- **Are there any City of Berkeley profits made on Organics self-hauled to BTS?**
- **Are there known profits made by Organics franchise contractor (Recology) for what Berkeley is charged to Compost Berkeley Organics? If so what is the % Profit on the enterprise?**
- **What is the Plastics Recycling, Organics Composting, and C&D recycling Transfer Station tipping fee relative to transfer costs ie financial profit/loss for Berkeley?**
- **Are there any actual Berkeley profits made for Out of Jurisdiction Self-Haul Refuse, Recycling, Composting or C&D? Or are we using Berkeley taxes to process the 28,438 Tons (30%) What are the city profits on these tons?**

**2.1.3. Berkeley's Commercial Refuse does not meet State of California (AB 939) diversion requirements of 50% (slide 11)-hence its worth focusing on the 4000 commercial & Large MFD accounts. Plus the AC "What's in our Trash" Pie Charts confirm that recyclables make up more than 50% of the current tonnage.**

There was consensus that sub-committee should report back to full Commission that it might be worthwhile to focus attention on the 4000 commercial & Large MFD accounts because we think it might be most feasible to make progress.--Committee questions for Staff response arose:

- **Does the city ZW Department or Tenants Authority have more specific information on the 4000 accounts to enable staging an ordinance to address the largest tonnages first?**
- **Are we able to sort the large accounts by tonnage to make any focus?**

**2.1.4. Public comments were made that the findings on Berkeley's Metrics are valuable to cover in the local media: newspapers and news shows to engage residents to become more educated and to give possible creative ideas that can be a WIN-WIN FOR ALL!! (Glen is a journalist and expressed interest in writing some future news stories)**

3. Discussion of Berkeley's existing building code and best practices for Commercial and Multifamily Dwelling (MFD) Large refuse generators. In City of Berkeley "New Construction Guidelines for Waste Containers" (need a URL link to it on the city or B ZW website)

**3.1. Valuable Public Comments were made that:**

**There is exceptional need to provide EDUCATION TO LARGE MFD LANDLORDS on what goes in what bin because its very confusing and chaotic the bin colors are both blue and the guidance is not being transmitted from the city to the MFD units.**

4. There is need to disseminate model lease language to transmit the landowners penalties to renters when they violate the recycling rules.
5. Commissioners had consensus that camera devices might help in finding violators to identify who needs to be educated.
6. Discussion on NYC -See AIA ZW Guidelines  
<https://www.zerowastedesign.org/about-the-guidelines/>
7. Discussion on SF 2013 Administrative Bulletin on Adequate Space Requirements Guidelines for new developments  
[https://sfenvironment.org/sites/default/files/fliers/files/sfe\\_zw\\_ab088\\_010114.pdf](https://sfenvironment.org/sites/default/files/fliers/files/sfe_zw_ab088_010114.pdf)
8. Discussion on San Francisco's NEW (ie. JULY 1, 2019) Refuse Separation Compliance law/Ordinance (No.180646):  
<https://sfenvironment.org/zerowastefacilitator>
9. Discussion on possible actions to recommend for Berkeley to best improve diversion and recycling especially for organics that create methane GHG emissions when landfilled. Discuss if there are code changes or best practices that may make reduce refuse generation and diversion/source-reduction, reuse, recycling such as:
  - **What are other progressive cities doing that Berkeley can follow and not reinvent any wheels. What about Toronto, Switzerland? SF onsite Composting at Laguna Honda?**
  - **Are there any attractive financial methods to provide incentives like the seismic retrofit program.**
  - **Sub-Committee would like to schedule a tour of one of the large MFD accounts to see how recycling is being done.**
- 9.1. Recommend that the City Council refer to the City Manager a proposed building code for indoor and outdoor "adequate space requirements" inside of buildings and outside for bins and storage for pick up for ZW recycling and reuse work.

9.1.1. **There was some Sub-committee support to update the city's "adequate space requirements" especially for the two new known BART Large Affordable housing Projects underway is but additional research is needed** to find science that can be used to define a useful Berkeley calculation equation for adequate space based on building square footage and occupancy.

9.1.2. Need data to check if current best practice: "...reasonable **rule of thumb is to provide 50 gallons (or ¼ cubic yard) of container capacity for every three residents.** It is good practice to provide 20% to 35% excess capacity for seasonal variation and other surges in volume. Follow the 40-40-20 guideline for MFD container sizes. For weekly collection services, 40% will be trash, 40% will be recycling, and 20% will be organics (not including landscape debris)..."

9.2. Recommend that the City Council refer to the City Manager a ZW "Separation Ordinance" similar to SF's Ordinance (No. 180646) that requires Large Refuse Generators including MFDs to have a recycling, composting, and refuse/trash audit every X/3 years to ensure compliance with the County's Mandatory Recycling and Composting Ordinance.

9.2.1. **There was some Sub-committee support for this but additional research is needed to see if the Berkeley FTE manhours to do the audits will be paid for by the Landfill tipping fees currently paid . Does it save dollars to do it? Does it create Berkeley Employment for the ZW Facilitators? Need template model lease language to pass through the cost of hiring the ZWF to the renters that violate the recycling rules. Need to set it up so that the landowner has the option to pay high penalty or hire a ZWF to write the ZW Plan for the account.**

9.3. **Comments came up repeatedly on Homeless encampment refuse and recycling. There was consensus that this sector was probably not the LARGE refuse tonnage for Berkeley as a whole but that the mess looks unhealthy) and is very visible creating citywide negative perceptions and consensus that our Commission should recommend to the City Council that like Oakland that the city provide free pick up to make Berkeley the Cleanest most environmentally sustainable city! One idea was to provide a mobile vehicle (ask for grant funding from Caltrans) that the homeless can engage in Climate Change work and there are possible training opportunities through Berkeley City College and to help the encampments gain profits on recyclables to support their road to recovery out of homelessness.**

ADJOURNMENT: Meeting Adjourned at 7:30 p.m. The next sub-committee meeting of the Zero Waste Commission will be held on March 26<sup>th</sup>, 2020.

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**REQUIRES STATE REGULATIONS TO REDUCE PLASTIC WASTE, TAX**

**PRODUCERS OF SINGLE-USE PLASTICS, AND FUND RECYCLING AND**

**ENVIRONMENTAL PROGRAMS. INITIATIVE STATUTE.** Requires CalRecycle to

adopt regulations reducing plastic waste, including to: (1) require that single-use plastic packaging, containers, and utensils be reusable, recyclable, or compostable, and to reduce such waste by 25%, by 2030; (2) prohibit polystyrene container use by food vendors; and (3) tax producers of single-use plastic packaging, containers, or utensils by January 1, 2022, and allocate revenues for recycling and environmental programs, including local water supply protection.

Prohibits Legislature from reducing funding to specified state environmental agencies below 2019 levels. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: **State revenue from new tax on single-use plastic**

**packaging and foodware likely in the range of a few billion dollars annually. Revenues would be used to administer and implement programs intended to reduce waste, increase recycling, and restore habitats. Unknown net effect on local governments. There would likely be increased costs for waste collecting and sorting which might be partially or fully offset by new tax revenue, payments from producers to support recycling, or lower costs associated with a reduction in total plastic waste collected. (19-0028A1.)**



## The California Recycling and Plastic Pollution Reduction Act of 2020

A ballot initiative to curb plastic pollution was filed on Dec 9<sup>th</sup>, 2019 to the California Attorney General's office to begin the campaign to collect signatures to qualify for a measure on the November 2020 ballot. Below are answers to some commonly asked questions.

### What would the Act accomplish?

If approved by voters, the Act would do two important things:

1. Give CalRecycle the authority to require producers of single-use plastic packaging and foodware to:
  - Transition to reusable, recyclable, or compostable packaging and foodware by 2030
  - Follow guidelines set by the agency defining reusable, recyclable and compostable
  - Set standards for labeling and marketing to improve the proper sorting of waste materials
  - Set a statewide baseline and reduce the amount of single-use packaging and foodware by no less than 25% by 2030
  - Ban the use of polystyrene by food vendors statewide
  - Improve convenient consumer access to recycling (e.g., retailer takeback programs)
2. Establish a sliding scale Plastic Pollution Reduction Fee on producers of up to 1¢ per item, which will be determined by CalRecycle dependent on the recyclability or composability of each material type and form. Funds generated by this fee will go towards the following:
  - Local government efforts to clean and abate plastic pollution
  - Maintenance and expansion of recycling and composting infrastructure
  - Mitigation of the impacts of plastic pollution on disadvantaged communities
  - Use of compost and other healthy soils practices to improve soil fertility and carbon sequestration
  - Prevention of food waste and recovery of edible food for human consumption
  - Market development for plastic, glass, fiber, and organic waste
  - Deployment of reusable and refillable system alternatives
  - Education and outreach to residents and businesses on waste reduction, recycling and composting
  - Protection and restoration of streams, rivers, beaches and coastal waters from plastic pollution

### Who is supporting it?

The initiative was filed by San Francisco based Recology, a progressive waste collection company focused on resource recovery, recycling and composting. It has support from a wide range of stakeholders from oceans groups, to zero waste and soil health advocates.

### How does the process work?

The language of the initiative was finalized on December 9<sup>th</sup>. Once the Attorney General approves the title and summary in early January, signature collection will begin. 960,000 signatures with a 75% validity rate must be collected by April 21<sup>st</sup>, 2020 in order for the measure to qualify for the ballot.

### What is needed now?

Getting to the signature collecting stage of the campaign requires two things:

1. **Financial support.** \$4.5 million in pledged support is needed. Donors will only be asked to fulfill their pledge if this target is met. If you are interested in making a pledge or sharing ideas for potential donors, please contact Calla Rose Ostrander at [callarose@gmail.com](mailto:callarose@gmail.com). Recology has pledged \$1M to start, Plant Based Products Council has pledged \$.5M and The Nature Conservancy has pledged the last \$1M. We are seeking another \$2M.
2. **Practical support.** Demonstrating widespread support for this initiative has just begun. It will require much more engagement from advocacy organizations, community groups and stakeholders to go up against the influential and well-funded plastics industry. If you would like to be involved with the campaign strategy implementation, please contact Baani Behniwal at [baani@cawrecycles.org](mailto:baani@cawrecycles.org).



December 17, 2019

Michael Sangiacomo, Linda Escalante and Caryl Hart  
c/o Emily Andrews  
Olson, Hagel and Fishburn, LLP  
555 Capitol Mall, Suite 400  
Sacramento, CA 95814

**SUBJECT: California Recycling and Plastic Pollution Reduction Act of 2020**  
**POSITION: SUPPORT**

Dear Initiative Proponents:

On behalf of the members of the California Clean Seas Lobbying Coalition (CSLC) we are pleased to offer our initial support for the proposed above-referenced Initiative which will, among other goals:

- Reduce the sources of plastic pollution and its impacts on the state’s ocean, coastal and freshwater environments and communities;
- Reduce the amount of packaging and single-use foodware waste generated in the state;
- Reduce our reliance on fossil fuels;
- Promote the design and deployment of reusable systems and other innovations for packaging and single-use foodware;
- Mitigate and abate the impacts of plastic pollution, solid waste disposal, and litter on the state’s natural environment and communities;
- Restore and protect streams, rivers, beaches coastal and ocean environments impacted by plastic pollution and other toxins associated with plastic materials;
- Require the producers of single-use plastic packaging to pay for cleanup of plastic pollution and management of plastic waste by imposing a fee on single-use plastic packaging and single-use plastic foodware; and
- Relieve local governments and taxpayers from the costs of single-use plastic packaging waste by establishing a California Plastic Pollution Reduction Fund, which would support local public works infrastructure and litter abatement activities, reuse, and environmental restoration, and projects located in disadvantaged communities.

In particular, we applaud the language that addresses source reduction and toxic chemicals:

42381(a)

(3) Place requirements on producers to source reduce, by both weight and number of items, single-use plastic packaging and single-use plastic foodware sold in or into California to the maximum extent possible, and by no less than twenty-five percent (25%) by 2030. Source reduction shall not result in replacing a recyclable or compostable material with a nonrecyclable or noncompostable material. The Department shall, by regulation, develop a baseline by 2023 and a timeline for reduction to achieve the 2030 goal.

(8) Consider the adoption of regulations to ensure the health and safety of all single-use plastic packaging and single-use plastic foodware, consistent with but not limited to the provisions of Chapter 6, commencing with 42370, of Part 3 of Division 30 of the Public Resources Code. (which refers to SB 1335 – regs are still in draft form at the moment but address certain chemicals of concern such as PFAS, BPA, etc)

All of the undersigned organizations and their members work collaboratively to protect, preserve and restore California’s waterways, coast, and ocean via grassroots campaigns, education, and legislation; with a focus on solutions to the plastic pollution crisis. We believe that coupled with legislative efforts such as SB 54 and AB 1080, this Initiative will significantly reduce the source of this pollution, promote reusable and refillable systems, and ensure that only those products deemed necessary to produce in the first place, will be effectively recycled or composted in the state.

Our coalition looks forward to working with you to ensure the success of this important effort.

Please do not hesitate to contact me or our legislative representatives, Justin Malan at [justin@ecoconsult.biz](mailto:justin@ecoconsult.biz) or Genevieve Abedon at [genevieve@ecoconsult.biz](mailto:genevieve@ecoconsult.biz) or (916) 448 1015.

Sincerely,



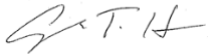
Genevieve Abedon – on behalf of:

Emily Parker



Coastal and Marine Scientist  
Heal the Bay

Angela T. Howe, Esq.



Legal Director  
Surfrider Foundation

Ruth Abbe



President  
Zero Waste USA

Katherine O'Dea



Executive Director  
Save Our Shores

Dianna Cohen



Chief Executive Officer  
Plastic Pollution Coalition

Anna Cummins



Co-Founder and Executive Director  
The 5 Gyres Institute

Mati Waiya



Executive Director  
Wishtoyo Chumash Foundation

Christopher Chin



Executive Director  
The Center for Oceanic Awareness, Research, and  
Education (COARE)

Miriam Gordon



Program Director  
UPSTREAM



We write to express our support for the proposed “California Recycling and Plastic Pollution Reduction Act of 2020” that has been filed with the California Attorney General’s office.

The Act, if approved by voters in November 2020, would reduce plastic pollution, lower greenhouse gas emissions, improve the health of California’s oceans, natural and working lands and create jobs. It would phase out the use of polystyrene packaging and phase in the requirement that single-use products be reusable, recyclable, or compostable. Importantly, it would set up a Plastic Pollution Reduction Fee by imposing a fee of one cent on each plastic product. Revenue from this fee would fund numerous beneficial programs and projects aimed at improving recycling, composting, cleaning up plastic pollution, developing alternatives to plastics and enhancing our carbon sinks.

As advocates of organic and sustainable agriculture and carbon farming, we recognize the many environmental and health benefits of improving soil health. By implementing an array of practices such as applying compost, transitioning away from synthetic fertilizers, increasing biodiversity, turning animal waste into compost, our farms and ranches can become carbon and water sinks while reducing air and water pollutants.

The state of California has also recognized the importance of agricultural solutions to the climate crisis by establishing a suite of Climate Smart Agriculture programs to incentivize farmers and ranchers to use healthy soils, water smart practices and alternative manure management. However, existing funding for these programs is dwindling and becoming more competitive even as demand from farmers is growing and as the imperative for scaling up these climate solutions is becoming more apparent in the face of a changing climate. This Act would provide an ongoing and reliable source of funding at a scale that meets the challenge climate change presents, something current funding sources cannot do. It would tax the polluters and invest those dollars in transitioning our economy to one that turns waste into viable products and apply the revenue to advance the solutions we need to avoid the worst impacts of a changing climate.

Our organizations are committed to supporting the signature collecting phase as well as the campaign to educate voters about its many benefits. We hope you will join us.

Sincerely,

Jeanne Merrill, Policy Director  
California Climate and Agriculture Network

Dave Runsten, Policy Director  
Community Alliance with Family Farmers

Jo Ann Baumgartner, Executive Director  
Wild Farm Alliance

Reggie Knox, Executive Director  
California FarmLink

Dave Henson, Executive Director  
Occidental Arts and Ecology Center



EXECUTIVE COMMITTEE

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Northern Recycling Compost  
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Recology  
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Recology  
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Sonoma Compost  
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Tracy Delta Compost  
Upper Valley Recycling  
Vision Recycling  
Zanker Road Resource Management  
Z-Best Compost Facility  
Zero Waste Energy Development  
Zero Waste Energy, LLC

November 19, 2019

Michael Sangiacomo, Linda Escalante and Caryl Hart  
c/o Emily Andrews  
Olson, Hagel and Fishburn, LLP  
555 Capitol Mall, Suite 400  
Sacramento, CA 95814

**SUBJECT: California Recycling and Plastic Pollution Reduction Act of 2020**  
**POSITION: SUPPORT**

Dear Initiative Proponents:

The California Compost Coalition (CCC) is a statewide organization representing operators of composting facilities involved in the processing of green and food waste materials derived from municipal solid waste throughout California.

CCC is pleased to support its initial support for the proposed above-referenced Initiative which will, among other goals:

- Develop long term incentives to support recycling, composting, reuse and manufacturing infrastructure; and
- Recycle food scraps, yard trimmings and other organic waste, recover edible food for human consumption, and increase the production and use of compost to improve the health and climate resilience of soils and food systems.

As you are aware, California has enacted several very ambitious organic waste recycling mandates. Without a significant investment into organic recycling infrastructure by local and state government, we will not be able to meet these laudable goals.

Our coalition looks forward to working with you in finalizing the language of the Initiative and in soliciting support from allied sectors to ensure the success of this important effort.

Please do not hesitate to contact me or our legislative representative, Justin Malan at [justin@ecoconsult.biz](mailto:justin@ecoconsult.biz) or (916) 448 1015.

Sincerely,

Neil S.R. Edgar  
Executive Director

1822 21st Street • Sacramento, CA 95811 • (916) 739-1200 • Fax: (916) 739-1216  
Neil@californiacompostcoalition.org • www.californiacompostcoalition.org

## **CALIFORNIA RECYCLING AND PLASTIC POLLUTION REDUCTION ACT OF 2020**

### **SEC.1. Title.**

This measure shall be known and may be cited as the “California Recycling and Plastic Pollution Reduction Act of 2020.”

### **SEC.2. Findings and Declarations**

The People of the State of California find and declare all of the following:

(a) Annual global production of plastic has reached 335 million tons and continues to rise. In part due to increased availability of and reliance on fossil fuel resources, global plastic production is projected to more than triple by 2050, which would account for 20 percent of all fossil fuel consumption.

(b) Nearly 9 million tons of plastic enters the ocean each year globally. Without action, the amount of plastic entering the ocean each year will double by 2025. Researchers have found deadly levels of plastic pollution in the guts of seabirds, sea turtles, and marine mammals, including whales and dolphins.

(c) Most plastics are petrochemicals made from hydrocarbons derived from fossil fuels. Production of these materials contributes to climate change and furthers our reliance on nonrenewable resources. Litter of these plastics constitutes a form of oil pollution spilling into our oceans and contaminating our environment.

(d) Local taxpayers in California annually spend in excess of four hundred twenty million dollars (\$420,000,000) in ongoing efforts to clean up and prevent plastic and other litter from entering our rivers and streams and polluting our beaches and oceans.

(e) Large and small plastic particles are increasingly found in streams, rivers and coastal ecosystems degrading habitat conditions for wildlife and contaminating fish, plants and other organisms. Plastic particles have also been found in drinking water, bottled water, table salt, and fish and shellfish from local California fish markets.

(f) Disadvantaged and low-income communities are disproportionately impacted by the human health and environmental impacts of plastic pollution and fossil fuel extraction.

(g) California’s commitment to recycling has created 125,000 jobs and provides the raw materials necessary to support manufacturing businesses.

(h) As the fifth largest economy in the world and a global center of innovation, California has a responsibility and ability to lead on solutions to the growing plastic pollution crisis and waste reduction generally.

(i) Further, businesses selling products in and into California have a responsibility to minimize waste and ensure their products and packaging are reusable, recyclable, or compostable and do not enter the environment.

### **SEC.3. Purpose and Intent.**

It is the intent of the People of the State of California to do all of the following with this measure:

(a) Reduce the sources of plastic pollution and its impacts on the state's ocean, coastal and freshwater environments and communities.

(b) Reduce the amount of single-use plastic packaging and single-use plastic foodware waste generated in the state.

(c) Reduce our reliance on fossil fuels and move towards renewable materials, including biobased products.

(d) Develop long term incentives to maintain and increase recycling, composting, reuse, and remanufacturing infrastructure.

(e) Reduce the cost to local governments, ratepayers, and the state to achieve the state's recycling and composting goals.

(f) Promote the design and deployment of reusable and refillable systems and other innovations for packaging and single-use plastic foodware.

(g) Increase the use of recycled and renewable materials in the production of single-use foodware and single-use plastic packaging.

(h) Mitigate and abate the impacts of plastic pollution, solid waste disposal, and litter on the state's natural environment and communities.

(i) Restore and protect streams, rivers, beaches, coastal and ocean environments impacted by plastic pollution and other toxins associated with plastic materials.

(j) Increase the recycling of food scraps, yard trimmings and other organic waste, recover edible food for human consumption, increase the production and use of compost, and provide financial incentives and technical assistance to deploy a diversity of healthy soils and water-smart practices, including compost applications, which increase carbon sequestration, reduce greenhouse gas emissions and provide multiple air and water quality benefits.

(k) Producers shall be responsible for ensuring that, to the maximum extent possible, single-use plastic packaging and single-use foodware pollution and waste is reduced,

recycled, or composted, and by the year 2030, the amount of California-generated single-use plastic packaging and single-use foodware waste that is disposed shall be reduced by 80 percent compared to 2020 levels, as determined by the Department.

(l) Require the producers of single-use plastic packaging to pay for cleanup of plastic pollution and management of plastic waste by imposing a fee on single-use plastic packaging and single-use plastic foodware.

(m) Relieve local governments and taxpayers from the costs of single-use plastic packaging waste by establishing a California Plastic Pollution Reduction Fund, which would support local public works infrastructure and litter abatement activities, composting, recycling, reuse, and environmental restoration.

(n) Nothing in this initiative is intended to impose new increased costs to state or local governments.

**SEC. 4. Chapter 6.1 (Commencing with Section 42380) is added to Part 3 of Division 30 of the Public Resources Code, to read:**

42380 For purposes of this Act, the following definitions apply:

(a) "California Plastic Pollution Reduction Fee" means the fee imposed pursuant to Section 42382(a).

(b) "Department" shall mean the California Department of Resources Recycling and Recovery.

(c) "Disadvantaged community" means a community identified as disadvantaged pursuant to Health and Safety Code Section 39711.

(d) "Expanded polystyrene food service container" means a container made primarily of expanded polystyrene and used in the restaurant and food service industry for serving or transporting prepared, ready-to-consume food or beverages, including, but not limited to, plates, cups, bowls, trays, and hinged containers. "Expanded polystyrene food service container" does not include packaging for unprepared foods.

(e) "Food vendor" means an establishment that provides prepared food for public consumption on or off its premises, and includes, but is not limited to, a store, shop, sales outlet, restaurant, grocery store, supermarket, delicatessen, catering truck or vehicle, any other person who prepares prepared food, and any organization, group, or individual that provides food as part of its services.

(f) "Low-income communities" are census tracts with median household incomes at or below 80 percent of the statewide median income or with median household incomes at or below the threshold established pursuant to Health and Safety Section 50093.



(g) “Low-income households” are those with household incomes at or below 80 percent of the statewide median income or with household incomes at or below the threshold established pursuant to Health and Safety Code Section 50093.

(h) “Person” means a natural person, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, association, or other entity.

(i) “Plastic” means a synthetic material chemically formed by the polymerization of organic substances that can be molded or extruded at high heat into various solid forms that may be solid, porous, flexible, or rigid, including elastomers, fibers, adhesives, and surface coatings, as those terms are defined by the Department.

(j) “Priority population” means disadvantaged communities, low-income households, and low-income communities.

(k) (1) “Producer” means the person who manufactures the single-use plastic packaging or single-use plastic foodware items under that person’s own name or brand or who sells or offers for sale the single-use plastic packaging or single-use plastic foodware item.

(2) If there is no person who is the producer of the single-use plastic packaging or single-use plastic foodware for purposes of paragraph (1) of this subdivision, the producer is the person who imports the single-use plastic packaging or single-use plastic foodware as the owner or licensee of a trademark or brand under which the single-use plastic packaging or single-use plastic foodware is sold or distributed in the state.

(3) If there is no person who is the producer for purposes of paragraphs (1) and (2) of this subdivision, the producer is the person that offers for sale, sells, or distributes the single-use plastic packaging or single-use plastic foodware in the state.

(l) “Single-use plastic foodware” means single-use food service ware, made partially or entirely of plastic, such as plates, hinged containers, bowls, cups, utensils, stirrers, straws and lids, and similar products as determined by the Department.

(m) “Single-use plastic packaging” means the packaging or components of packaging material, made partially or entirely of plastic, including plastic coated paper, plastic coated paperboard, and multi-layer flexible packaging containing plastic used for the containment, protection, handling, delivery, or presentation of goods by the producer for the user or consumer, ranging from raw materials to processed goods. Packaging includes, but is not limited to, all of the following:

(1) Sales packaging or primary packaging intended to constitute a sales unit to the consumer at the point of purchase and most closely contains the product, food, or beverage.

(2) Grouped packaging or secondary packaging intended to brand or display the product.

(3) Transport packaging or tertiary packaging intended to protect the product during transport.

(4) Single-use plastic packaging shall not include material used for the containment of medical devices and prescription drugs as specified in the federal Food, Drug, and Cosmetic Act (21 U.S.C. Secs. 321(h) and (g), and Sec. 353(b)(1)), infant formula, as defined in 21. U.S.C. Section 321(z), on-farm tertiary single-use plastic packaging, or reusable plastic packaging, as defined by the Department.

42381(a) The Department, in consultation with the California Environmental Protection Agency, the California Natural Resources Agency, the Ocean Protection Council, and the California Department of Tax and Finance Administration shall adopt regulations to implement and enforce this Act. Such regulations shall do all of the following:

(1) Place requirements on producers to ensure single-use plastic packaging and single-use plastic foodware is reusable, refillable, recyclable, or compostable by 2030. The Department shall, by regulation, define the terms reusable, recyclable, or compostable for purposes of this Act. In determining recyclability, the Department shall, at a minimum, consider whether a material type and form is regularly collected for recycling, sorted, and aggregated into defined streams, prior to being verifiably used in the production of new products. Combustion, fuel production, and other forms of disposal shall not constitute recycling of single-use plastic packaging and single-use plastic foodware.

(2) Place requirements on producers to reduce or prohibit single-use plastic packaging and single-use plastic foodware that the Department determines to be unnecessary for the delivery of a product or food item.

(3) Place requirements on producers to source reduce, by both weight and number of items, single-use plastic packaging and single-use plastic foodware sold in or into California to the maximum extent possible, and by no less than twenty-five percent (25%) by 2030. Source reduction shall not result in replacing a recyclable or compostable material with a nonrecyclable or noncompostable material. The Department shall, by regulation, develop a baseline by 2023 and a timeline for reduction to achieve the 2030 goal.

(4) Authorize the Department to require producers to use recycled content and renewable materials, as defined by the Department, in the production of single-use plastic packaging and single-use plastic foodware while ensuring recyclability or compostability.

(5) Establish mechanisms for convenient consumer access to recycling, including but not limited to take-back programs and deposits.

(6) Establish and enforce labeling standards to support the proper sorting of discarded single-use plastic packaging and single-use plastic foodware.

(7) Prohibit the distribution of an expanded polystyrene food service container by a food vendor.

(8) Consider the adoption of regulations to ensure the health and safety of all single-use plastic packaging and single-use plastic foodware, consistent with but not limited to the provisions of Chapter 6, commencing with 42370, of Part 3 of Division 30 of the Public Resources Code.

(b) Nothing in this subdivision shall be construed to impose any mandate upon a local government or local recycling provider.

(c) Producers shall register with the Department and submit data to the state that the Department deems appropriate to carrying out this chapter. Producers shall be responsible for proving compliance with these mandates.

(d) If the Department determines at any point that a single-use plastic packaging and single-use plastic foodware item cannot comply with a regulation established by the Department pursuant to section (a) due to health and safety reasons, because it is unsafe to recycle, or presents unique challenges and has no alternatives, the Department may exempt or provide an extension for that single-use plastic packaging or single-use plastic foodware from that regulatory requirement.

42382(a) The Department shall establish by January 1, 2022, and a producer shall pay, a California Plastic Pollution Reduction Fee, as determined by the Department, on all single-use plastic packaging and single-use plastic foodware destined for final sale in California. Such fee shall not exceed one cent (\$0.01) per item of single-use plastic foodware or single-use plastic packaging. Beginning January 1, 2030, the Department shall adjust annually thereafter the fee for inflation based on the California Consumer Price Index. The Department shall contract with the California Department of Tax and Fee Administration to administer, collect and enforce the fee established by the Department. Costs incurred by the California Department of Tax and Fee Administration for administering, collecting and enforcing the fee shall be paid by proceeds from the fee prior to distribution pursuant to subdivision (k).

(b) In determining the amount of the fee, the Department shall rely on the average net cost of recycling each material type and form, as determined by the Department, and the amount of each material type utilized by producers. For single-use plastic packaging and single-use plastic foodware that the Department determines is not currently recyclable or compostable, the amount of the fee shall be the equivalent of one cent (\$0.01) per item. The Department may update the amount of the fee no more than annually.

(c) Single-use plastic foodware and plastic packaging that are determined by the Department to be made wholly from plastic derived from renewable materials shall be subject to a fee that shall not exceed one-half cent (\$0.005) per item of single-use plastic packaging or single-use plastic foodware. Single-use plastic foodware and single-use plastic packaging that are made primarily from plastic derived from renewable materials shall be subject to a fee that shall not exceed three-quarters of one cent (\$0.0075) per item of single-use plastic packaging or single-use plastic foodware, as determined by the Department.

(d) A producer shall remit the fee assessed pursuant to this subdivision to the California Department of Tax and Fee Administration for deposit into the California Plastic Pollution Reduction Fund, which is hereby created in the State Treasury.

(e) The amount of the California Plastic Pollution Reduction Fee shall be paid by the producer of a single-use plastic foodware or single-use plastic packaging and shall not be passed on to consumers as a separate item on a receipt or invoice.

(f) The Department may adopt regulations for determining the amount of the fee for each material type, the schedule on which the fee is to be paid by a producer, and the methodology for adjusting the fee based on changes in the net cost of recycling, recyclability, or compostability. Regulations to adjust the fee shall be deemed to meet the description in subdivision (g) of Section 11340.9 of the Government Code and may be filed by the Department pursuant to Section 11343.8 of the Government Code.

(g) The Department of Finance may authorize one or more loans to the California Plastic Pollution Reduction Fund for cashflow purposes subject to the following conditions:

(1) The loans are to allow the departments identified in this section to begin program implementation activities, including, but not limited to, drafting program guidelines and regulations.

(2) The loans are short term, and shall be repaid within 30 days after the deposit of sufficient revenues into the California Plastic Pollution Reduction Fund.

(3) Interest charges may be waived pursuant to subdivision (e) of Section 16314 of the Government Code.

(h) The Department may impose an administrative civil penalty not to exceed fifty thousand dollars (\$50,000) per day on any producer not in compliance with this Act or any of the regulations the Department adopts to implement this Act. Funds collected pursuant to this provision shall be deposited into the California Plastic Pollution Reduction Penalty Account, which is hereby created in the State Treasury. Moneys in the California Plastic Pollution Reduction Penalty Account shall be expended upon appropriation by the Legislature in the annual Budget Act.

(i) The Department shall engage an independent firm of certified public accountants to conduct an annual audit of all accounts and transactions of the Department related to this Act. The audited financial statements shall be presented to the Department and the Controller not more than 120 days after the close of the fiscal year. The independent auditor's report shall be posted on the Department website. The Controller shall conduct quarterly and annual audits and postaudits of all accounts and transactions of the Department related to this Act and other special postaudits as the Controller deems necessary. The Controller or his or her agents conducting an audit in accordance with this Act shall have access and authority to examine any and all records of the Department, the Department's contractors or any other agency or entity receiving money from the California Plastic Pollution Reduction Fund. The Controller may issue a public report of any annual postaudit, which shall be posted on the Controller's website.

(j) A state entity that receives an appropriation or allocation from the California Plastic Pollution Reduction Fund pursuant to this chapter shall use no more than five percent (5%) of that appropriation or allocation for costs related to program administration, including costs associated with the annual independent financial audit, the State Controller's review of the annual independent financial audit, any additional State Controller audits based on findings from the independent financial audit or that the Controller deems necessary, and the allocation and reporting of revenues deposited in the California Plastic Pollution Reduction Fund. The administrative costs shall not include the Department's costs associated with development and implementation of the regulations adopted pursuant to Section 42381(a) and the repayment of loans made from the California Plastic Pollution Reduction Fund.

(k) After deducting costs of collection, administration and enforcement of the fee pursuant to subdivision(a), the revenues deposited into the California Plastic Pollution Reduction Fund shall be distributed as follows:

(1) Twenty percent (20%) of moneys deposited into the California Plastic Pollution Reduction Fund shall be transferred quarterly by the Controller to the Local Government Fund in the California Plastic Pollution Reduction Fund, which is hereby created in the State Treasury to be provided to local governments, upon appropriation by the Legislature in the annual Budget Act.

(A) The Local Government Fund shall invest in priority populations as follows:

(i) A minimum of twenty-five percent (25%) of the available moneys in the Local Government Fund shall be allocated to projects located within the boundaries of, and benefiting individuals living in, disadvantaged communities.

(ii) A minimum of five percent (5%) of the available moneys in the Local Government Fund shall be allocated to projects that benefit low-income households or to projects located within the boundaries of, and benefiting individuals living in, low-income communities located anywhere in the state.

(iii) A minimum of five percent (5%) of the available moneys in the Local Government Fund shall be allocated either to projects that benefit low-income households that are outside of, but within one-half mile of, disadvantaged communities or to projects located within the boundaries of, and benefiting individuals living in, low-income communities that are outside of, but within one-half mile of, disadvantaged communities.

(B) The Controller shall disburse these allocations as directed by the Legislature, for the following purposes:

(i) Protect groundwater and local clean drinking water supplies from the impacts of plastic pollution.

(ii) Prevent and clean up the impacts of litter and marine plastic pollution on communities and the natural environment.

(iii) Maintain local recycling and composting programs, and increase the amount of material recycled or composted.

(iv) Educate and provide outreach to residents and businesses on waste reduction, recycling, and composting

(v) Provide grants to organizations involved in litter abatement, public education, developing community recycling and composting infrastructure, or designing and deploying reusable system alternatives to single-use plastic foodware.

(2) Fifty percent (50%) of moneys deposited into the California Plastic Pollution Reduction Fund shall be transferred quarterly by the Controller to the Recycling, Composting and Reuse Fund in the California Plastic Pollution Reduction Fund, which is hereby created in the State Treasury for use by the Department to implement and enforce this Act and to specifically support statewide reduction, recycling, and composting efforts and create a supply of recycled materials to support manufacturing of products made from recycled materials. Moneys in the Recycling, Composting and Reuse Fund shall be continuously appropriated without regard to fiscal year. The Department shall develop, and regularly update, a Plastic Pollution Reduction Fee Investment Plan to allocate this funding. The plan shall do all of the following:

(A) Create, improve, and sustain markets for recyclable and compostable materials by developing:

(i) A Plastic Recycling Market Development Program to create new domestic markets for the recycling of plastics that had previously been disposed or exported, and enhance existing plastics recycling infrastructure.

(ii) A Glass Recycling Market Development Program to maintain and increase glass recycling. Not less than half of the revenue dedicated to this program shall be used to provide non-competitive market development payments for the use of recycled cullet in the manufacturing of glass container packaging.

(iii) A Fiber Recycling Market Development Program to maintain and increase the recycling of paper, cardboard and other fiber.

(iv) An Organic Waste Market Development Program to create incentives to maintain and increase the infrastructure for composting food scraps, yard trimmings and other organic waste.

(B) Establish a Circular Economy Grant Program to fund and provide technical assistance to programs that decrease reliance on single-use plastic packaging and that contribute to increased recycling and composting in the state. The Circular Economy Grant Program shall fund:

(i) Recycling and composting infrastructure.

(ii) The deployment of reusable or refillable system alternatives to packaging and single-use plastic foodware.

(iii) Practices by farmers and ranchers that establish healthy soils and water-smart practices, including the production and use of compost, that increase carbon sequestration, reduce greenhouse gas emissions, and improve the health and climate resilience of agricultural landscapes. The Department may contract with other agencies for the distribution of these funds to ensure this program complements and does not supplant existing programs.

(iv) Practices by landowners for the use of compost to support the restoration of degraded landscapes. The Department may contract with other agencies for the distribution of these funds to ensure this program complements and does not supplant existing programs.

(v) Organizations that prevent food waste, recover edible food for human consumption, or reduce food insecurity.

(vi) Organizations that undertake research, create educational and policy programs, or develop innovative solutions aimed at reducing disposal of single-use plastic packaging or mitigating the impacts of single-use plastic packaging waste on the state's natural environment, including streams, rivers, beaches and coastal and ocean environments.

(vii) The Circular Economy Grant Program shall invest in priority populations as follows:

(a) A minimum of twenty-five percent (25 %) of the Circular Economy Grant Program funds shall be allocated to projects located within the boundaries of, and benefiting individuals living in, disadvantaged communities.

(b) A minimum of five percent (5%) of the Circular Economy Grant Program funds shall be allocated to projects that benefit low-income households or to projects located within the boundaries of, and benefiting individuals living in, low-income communities located anywhere in the state.

(c) A minimum of five percent (5%) of the Circular Economy Grant Program funds shall be allocated either to projects that benefit low-income households that are outside of, but within one-half mile of, disadvantaged communities or to projects located within the boundaries of, and benefiting individuals living in, low-income communities that are outside of, but within one-half mile of, disadvantaged communities.

(3) (A) Thirty percent (30%) of the moneys deposited into the Fund shall be transferred quarterly by the Controller to the Environmental Mitigation Account, which is hereby established in the State Treasury, and shall be available to the Natural Resources Agency for grants to state and local public agencies to mitigate the impacts of plastic pollution, and to protect and restore wildlife and the environment including coastal and ocean ecosystems, streams, rivers, and beaches. Moneys in the Environmental Mitigation Account shall be continuously appropriated without regard to fiscal year. Funds allocated pursuant to this paragraph shall be used to restore habitat and wildlife and protect and improve public access to the state's natural resources.

(B) Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraph (A) and not replace allocation of other funding for those purposes. Accordingly, General Fund appropriations to the Department of Fish and Wildlife, California Coastal Conservancy, Wildlife Conservation Board, Ocean Protection Council, the Department of Parks and Recreation and the California Natural Resources Agency shall not be reduced below the levels provided in the Budget Act of 2019 (Chapter 40 of Statutes of 2019).

#### **SEC.5. Effective Date.**

This Act shall take effect upon approval by the voters of the California Recycling and Plastic Pollution Reduction Act of 2020 as provided in Article II, Sec. 10 of the California Constitution.

#### **SEC. 6. Severability.**

The provisions of this Act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word or application of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity



of the remaining portions of this Act. The People of the State of California hereby declare that they would have adopted this Act and each and every portion, section, subdivisions, paragraph, clause, sentence, phrase, word, and application not declared invalid.

**SEC. 7. Amendment.**

The Legislature may amend the Sections 42380, 42381, and 42382 of the Public Resources Code to further the purposes of the CALIFORNIA RECYCLING AND PLASTIC POLLUTION REDUCTION ACT OF 2020 by a statute passed in each house by roll-call vote entered in the journal, two-thirds of the membership concurring.