
Independent Review Panel

DEPARTMENT OF TOXIC SUBSTANCES CONTROL



Gideon Kracov, J.D., *Chair*
Mike Vizzier, *Vice Chair*
Dr. Arezoo Campbell, *Member*

Edmund G. Brown Jr.
Governor

Independent Review Panel Meeting Minutes June 14, 2017

1. Call to Order

Vice Chair Vizzier called the meeting to order at 9:08 a.m. in the Byron Sher Room of the CalEPA Building, 1001 I Street, Sacramento, CA.

Panel members present: Vice Chair Mike Vizzier, and Panel Member Arezoo Campbell. A quorum was declared.

Vice Chair Vizzier led the Panel in the Pledge of Allegiance.

2. Welcome and Introductions

Vice Chair Vizzier introduced himself and asked the following individuals to introduce themselves: Panel Member Campbell; Supervising Deputy Attorney General Matthew Goldman, legal counsel for the IRP; IRP Program Analyst Larry Rohlfes; and IRP Office Technician Mike Singh.

3. Announcements

Vice Chair Vizzier announced that Chair Gideon Kracov was expected to join the meeting between 9:30 and 10 a.m.

4. Agenda Review

Vice Chair Vizzier reviewed the agenda. He said he did not believe the Panel would go into a closed session. He proposed to take up the agenda items in the order listed, except that he planned to move the Chair's Report to later in the meeting if Chair Kracov did not join the meeting in time to present it in the order it appeared in the agenda.

5. Minutes of April 12, 2017 Meeting

Motion: Approve the minutes of the April 12, 2017 IRP meeting as drafted. Panel Member Campbell moved. Vice Chair Vizzier seconded. The motion carried unanimously.

6. General Public Comment

There were no public comments.

8. Staff Report

Mr. Rohlfes mentioned the various meeting documents that were posted on the Panel's website and available as handouts for the public.

He reported that Panel Member Campbell worked with him to incorporate the IRP's agreed-upon changes to its draft progress report on DTSC's Site Mitigation Program, that he submitted the final version of the report on April 21, 2017, and that it was posted on the Panel's website on the IRP Reports page.

He noted that IRP support staff had recently added a selection of documents on safer consumer products and source reduction to the Supporting Materials page of the IRP website in anticipation of the Panel's upcoming work on those topics.

He said DTSC public workshops took place on May 8 and May 15, 2017 to present the draft findings from the Department's evaluation of metal shredding facilities and management of metal shredder wastes. He noted that SB 1249 (Chapter 756, Statutes of 2014) required this evaluation by January 1, 2018 and authorized the adoption of regulations. He said the workshop presentation was posted on the IRP's website in the Metal Shredding section of the Supporting Materials page.

He called attention to the recent submission of DTSC's 2017 report on estimated direct site remediation costs for National Priorities List (NPL) and State Orphan sites, noting that the IRP had recommended submission of this report on a timely basis in its last report to the Governor and Legislature. He said the Department's report was posted on the IRP website in the Site Mitigation section of the Supporting Materials page.

He mentioned the release of two May Revision proposals since the IRP's April 2017 meeting, both of which were posted on the IRP website in the Budget section of the Supporting Materials page: one proposal requested an augmentation for NPL and State Orphan sites; the other request was an Exide Technologies closure implementation proposal.

He reviewed a staff report on pending legislation pertaining to DTSC.

Mr. Rohlfes reported that he gave some background on the IRP and its July 26, 2016 report recommendation to put inspection frequencies of permitted facilities in statute at a recent hearing by the Assembly Environmental Quality and Toxic Materials Committee on AB 1179 at the request of Assembly Member Ash Kalra, the bill's author.

In response to Chair Kracov's request at the April 2017 IRP public meeting for list of deliverables from recent DTSC budget change proposals, Mr. Rohlfes said he put together a list and submitted it to the Chair.

He stated that DTSC gave the IRP signed versions of the 2015 Amendment to the Stipulation and Order approved by the Bankruptcy Court on November 20, 2014 in the matter of Exide Technologies as evidence that DTSC had informed Exide that it would not approve a permit for the facility in

February 2015. He added that the signed documents were not received until after submission of the April 21, 2017 report. Consequently, he said a statement that DTSC had notified Exide in February 2015 that it would not approve a permit for the facility could not be included in the report's narrative, as agreed upon by the IRP at its April meeting.

Finally, Mr. Rohlfes mentioned that Chair Kracov had agreed to postpone a DTSC presentation on the Public Engagement Workplan, currently scheduled for the June meeting, for a later date because of the packed agenda at the meeting, and he reported that Deputy Director Jerilyn López Mendoza had communicated that she would like to give the presentation at the September IRP meeting or later.

Vice Chair Vizzier adjourned the meeting for a break at 9:29 a.m. Chair Kracov joined the meeting and reconvened it at 9:38 a.m.

7. Chair's Report

Chair Kracov said he had nothing to report under this agenda item.

9. DTSC Presentation on the Implementation of California's Safer Consumer Products Regulations.

DTSC Safer Products and Workplaces Program Deputy Director Meredith Williams, Ph.D. initiated a presentation on "California's Safer Consumer Products." A PowerPoint version of the presentation is available on the IRP's website at: <https://www.dtsc.ca.gov/GetInvolved/ReviewPanel/Meetings.cfm>.

After reviewing the Vision and Mission of the Safer Consumer Products (SCP) Branch, Ms. Williams summarized the problems that the SCP Program was created to address. She said consumer products can have negative health and environmental impacts beginning with the materials extraction process and continuing through the manufacturing process, transportation process, exposure in the home, and ending with the waste stream impacts. She said many consumers believe a product is safe if it is on the shelf, but that this assumption was known to be false. She said that even if consumers had the inclination to read product ingredients, many may not know what to do with that information. She said federal law was overhauled in 2016, but was considered somewhat ineffective prior to the overhaul, and that it still had limitations. As a result, she said that the Legislature had concerns about certain chemicals in the past and consequently banned some of them. However, she said that oftentimes the substitutions turned out to be equally problematic.

Ms. Williams said the Legislature recognized that this "chemical whac-a-mole" could go on forever and that a more holistic solution was needed to break the cycle. With those concerns in mind, she said the Legislature commissioned a report prepared by the UC Centers for Occupational and Environmental Health entitled Green Chemistry: Cornerstone to a Sustainable California. The 2008 report identified several key gaps that it said impeded government's ability from protecting the public. There was a data gap pertaining to the health and environmental effects of the approximately 80,000 industrial chemicals used in the U.S., with only a small percentage of them adequately characterized. There was a safety gap in that the federal Toxic Substances Control Act (TSCA) and its regulatory framework were not doing the job in terms of protecting the public. Finally, there was a technology gap amounting to insufficient incentives for investment in safer chemicals. She said DTSC launched its Green Chemistry Initiative (GCI) somewhat in parallel with the UC effort and that the outcome was its California Green Chemistry Initiative Report in 2008.

Ms. Williams said the Legislature and the Department opted to consider a regulatory framework that accomplished several goals. She said one was to move away from an emphasis on mostly voluntary pollution prevention and source reduction solutions that often were not taken up by industry and toward a more balanced, “carrot and stick” approach. She said a second goal was to intersect with more segments of the economy. She said DTSC previously had some authority to intersect problems with toxic chemicals, but it was limited to voluntary manufacturing and source reduction, permitting, transportation, waste facilities, and several specific products with known hazards: toxics in packaging, lead and arsenic containing jewelry, lead in plumbing, lead wheel weights, general purpose lights, electronic devices, and mercury-containing devices. More recently, DTSC was given authority to regulate copper brake pads. A third goal, she said, was to incentivize green chemistry and spur innovation.

Ms. Williams said the statutory authority for the SCP Program came from AB 1879 (Chapter 559, Statutes of 2008) and SB 509 (Chapter 560 Statutes of 2008). She said the SCP regulations were adopted in 2013. She said one reason it took nearly five years to adopt regulations was because it was an ambitious effort and the Department wanted to get it right. She said the California framework was built on the following foundational questions: is the chemical necessary in a product?; and is there a safer alternative? She said the framework shifts the responsibility for looking for safer alternatives from government to the manufacturer. She said this was done partly to spur innovation.

DTSC Safer Consumer Products Branch Chief Karl Palmer next covered the regulations. He said the regulatory framework was a four-step process.

He said the first step was to identify chemicals of interest by compiling lists created by other authoritative bodies throughout the world that have already identified chemicals of concern. He said the DTSC compilation had two types of candidate chemicals: (1) chemicals that were known to be harmful by their inherent hazard traits; (2) and chemicals that were documented to be in people, the water, or the air. He said the Legislature excluded several chemicals from inclusion: Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) pesticides, prescription drugs, food, medical devices, and dental restorative materials. He said the candidate chemicals database was posted on the DTSC website.

He said the second step was to overlay consumer products that contain those chemicals and select products that may cause harm because of exposure from those chemicals. He said the regulations provided criteria to guide DTSC in its selection of products in which to focus. He said there were two prioritization principles: (1) potential exposure to the candidate chemicals in the product; and (2) potential for the exposures to contribute to, or cause, significant or widespread adverse impacts. He said DTSC looked at impacts throughout the lifecycle of the product, from production to end of life. He said DTSC considered a multitude of factors, but gave special consideration to sensitive sub-populations; i.e., people with greater potential for harm, such as pregnant women, children, and the elderly. He said the sensitive populations were identified in the regulations. He said that the adoption of Priority Products took a great deal of research, dialog, and information sharing. He said this laborious process ultimately resulted in a rulemaking whereby DTSC would adopt a specific Priority Product and, in doing so, put all its information on the table.

He said the third step was to require manufacturers of a Priority Product to conduct an Alternatives Analysis. He said this was a broad and deep analysis of the product’s entire lifecycle that allowed the manufacturers to decide how to make their products safer. He said the process involved a manufacturer evaluation, public comment, confidential business information protections, and life-style thinking. He said the regulations required consideration of the following factors, plus

numerous sub-factors: adverse environmental impacts, adverse public health impacts, adverse waste and end-of-life effects, environmental fate, materials and resource consumption impacts, physical chemical hazards, physicochemical properties, and associated exposure pathways and life cycle segments. He said the manufacturers were required to articulate their assumptions, processes, data gaps, uncertainties, and how they weighed this information in their conclusions about steps to take.

He said the fourth step was for DTSC to determine if the manufacturer's recommendation was adequate, which DTSC's guidance defined as taking the safest option available. He said DTSC had a variety of regulatory options if the recommendation was determined to be inadequate. He said DTSC could require additional information for the Department, additional information for the consumer or workers, research to fill data gaps, additional safety measures, restrictions/prohibitions on sales, end-of-life product stewardship, and research funding.

Mr. Palmer next addressed what DTSC was doing to implement the regulations. He said the first Priority Product that DTSC adopted was children's foam-padded sleeping products with Tris(1,3-dichloro-2-propyl) phosphate (TDCPP) or tris (2-chloroethyl) phosphate (TCEP). He said the regulations to make them a Priority Product would become effective on July 1, 2017. He said the second Priority Product in process was spray polyurethane foam with unreacted methylene diphenyl diisocyanate (MDI). He said DTSC was currently in the rulemaking process to identify it as a Priority Product. He said the third proposed Priority Product was methylene chloride paint strippers.

He said the regulations required DTSC to issue a Priority Product Work Plan to identify and describe the product categories that DTSC would evaluate to identify product-chemical combinations to be added to the Priority Products list during the three years following issuance of the plan. He explained that this signaled to the chemical manufacturers that DTSC was interested in their products and informed them of the Department's policy priorities. He said DTSC had a big menu of policy priorities in its Priority Product Work plan for 2015-17 and was not necessarily obligated to focus on "the worst actor out there." He said a work plan for the next three years would be issued before the end of 2017.

In response to questions from Chair Kracov, Mr. Palmer said his branch had a budget of a little more than \$4 million and a staff of about 25, including individuals who did administration, web posting, and other support work. He clarified that Ms. Williams had two branches reporting to her: a Health and Safety Branch and the SCP Branch.

Mr. Palmer reviewed the seven initial categories in the current work plan: (1) beauty, personal care, and hygiene products; (2) household and office furniture/furnishings; (3) building products—paint, adhesives, sealants, and flooring; (4) cleaning products; (5) fishing and angling equipment; (6) office machinery consumable products; and (7) clothing.

Mr. Palmer then discussed several areas of DTSC interest from the 2015-17 work plan categories: potential aquatic impacts and continued uses of nonylphenol ethoxylates (NPEs); potential aquatic impacts and continued uses of triclosan; perfluoroalkyl and polyfluoroalkyl (PFASs) in carpets, rugs, indoor upholstered furniture, and their care and treatment products; and nail salon products. He noted that a law recently was passed, AB 2125 (Chapter 564, Statutes of 2016), that required DTSC to publish guidelines for cities and counties to voluntarily implement local healthy nail salon programs.

Mr. Palmer said DTSC subsequently added lead-acid batteries to the 2015-17 Priority Product Work Plan in response to a mandate from the Legislature and Governor and was looking at them as a potential Priority Product moving forward.

Mr. Palmer highlighted a process in the regulations that allowed anyone to petition to add a potential Priority Product to the list.

Mr. Palmer said the CalSAFER data management system on the DTSC website operated as the information center for the regulatory activities of the program. He said entities subject to SCP regulations could communicate and exchange information with the Department through this tool and that stakeholders could view and comment on submissions.

Mr. Palmer said DTSC released the Alternatives Analysis Guide that morning, but would continue to amend the document.

In response to a question from Vice Chair Vizzier, Mr. Palmer said the Alternatives Analysis process would be challenging for manufacturers because it required an examination of all impacts and did not apply a traditional risk assessment formula.

In response to a question from Chair Kracov, Mr. Palmer said that manufacturers of a Priority Product had several choices: leave the market, remove the chemical from their product, or do the analysis at one of several levels, depending on their objectives.

Ms. Williams next discussed what she called the three pillars of the program: (1) build capacity, (2) execute, and (3) lead the way. She said the program's shadow was greater than its shape, meaning that it was sending a signal to the marketplace. She said DTSC knew the signal was being heard. She gave examples of manufacturers voluntarily finding safer alternatives in anticipation of future California actions. She expressed her view that California's regulations helped bring stakeholders to the table for the 2016 TSCA overhaul. She said the SCP Program's approach had received considerable praise from DTSC's European counterparts. Finally, Ms. Williams said she considered the SCP Program to be every bit as innovative and driving of change as was the California Global Warming Solutions Act of 2006 (AB 32).

In response to a question from Chair Kracov, Ms. Williams said that brake pad legislation was signed into law after the 2008 green chemistry legislation, but before the 2013 SCP regulations were complete, and that the brake pad regulations were part of the SCP Program.

Panel Member Campbell asked if there were opportunities for the public to express concerns about products that they think may be harmful.

Ms. Williams responded that consumers may contact DTSC about concerns regarding products and that DTSC held workshops on draft work plans and as part of the regulatory process.

Panel Member Campbell asked how the program addressed chemical interactions.

Ms. Williams responded that the program had the means to address multiple chemicals in a product.

Vice Chair Vizzier said that staff positions from other DTSC programs were lost when the SCP Program was established and asked if there had been an effort to backfill those positions.

Ms. Williams responded that resource constraints were a fiscal challenge for many agencies at the time the SCP Program was created and that a conscious policy decision was made then to put more emphasis on enforcement.

DTSC Director Barbara Lee responded that DTSC was looking at ways of bringing staff resources together from various programs to leverage work and achieve multiple goals, and she gave several examples. She said that the enforcement staff would be receiving considerable work from the SCP Program. She noted that staff members from multiple programs were involved in the lead-acid battery work. Finally, she said that in the Certified Unified Program Agency (CUPA) world, hazardous waste generators have been required to put together pollution prevention plans, but they have not been required to implement them; but now, she said DTSC would be able to address this problem by requiring the manufacturers to put in place mechanisms for safer handling of the waste if their products cannot be redesigned to remove the hazardous components.

Vice Chair Vizzier said he was still concerned about the reduction of resources that were not backfilled.

Director Lee responded that every manager in government believes that his or her program needs more staff resources. She said DTSC would be losing about 40 positions next year, but that it was planning to do more with less, with better integration across the Department.

Chair Kracov asked Ms. Williams if she could identify performance metrics for the program.

Ms. Williams responded that, historically, the benefits of pollution prevention were hard to measure. She said metrics would be part of the program's strategic plan, but that DTSC did not have them yet.

Director Lee said the IRP was not mandated to report on the SCP Program, but that it could recommend that it develop a strategic plan. She encouraged the IRP to give some thought to DTSC's offer to discuss the status of the program-specific strategic plans later this year. She said DTSC ultimately would like to see changes in exposures, such as what they found in the breast milk studies following the ban on flame retardants, but that such studies would take time.

Chair Kracov asked if the program was aimed at reducing the amount of hazardous waste in landfills, protecting consumers from hazardous products, or both.

Director Lee responded that the two goals were intertwined to some extent. She said DTSC eagerly embraced the SCP Program because it represented the ultimate management of hazardous waste and toxic materials. Director Lee said she liked to think of DTSC as having three broad programs that covered: (1) cleanup that addresses what happens when hazardous materials are released into the environment, (2) hazardous waste management that tries to prevent the release of hazardous constituents from the facilities that generate them, and (3) the SCP Program that moves all the way upstream. She said the SCP Program was the future and that with it, DTSC had "the entire lifecycle."

Ms. Williams said she wished the program was moving faster. However, she said that it was setting a precedent and nobody could have estimated how long the work would take. She said DTSC built a culture to get things done, and that was what would sustain the program over the long haul. She said the program was moving slowly to go quickly.

Chair Kracov said the IRP would probably ask DTSC to evaluate how it did with respect to the Priority Product Work Plan.

Ms. Williams responded that DTSC received some feedback on the plan itself from the Green Ribbon Science Panel after its publication.

Chair Kracov adjourned the meeting for a break at 11:44 a.m. and reconvened it at 11:50 a.m.

Public comments by email:

Catherine Porter, policy director of the California Healthy Nail Salon Collaborative, said the collaborative strongly urged DTSC to go broad and err on the side of supporting public health when it considered products and chemicals in the nail products category. As an example, she said DTSC should target chemical groups, not just the individual chemicals used in nail products.

10. Presentation on DTSC Safer Consumer Products Program by Timothy F. Malloy, J.D., UCLA School of Law Professor, Faculty Director of the UCLA Sustainable Technology and Policy Program, and Member of the DTSC Green Ribbon Panel

A PowerPoint version of the presentation is available on the IRP website at:

<https://www.dtsc.ca.gov/GetInvolved/ReviewPanel/Meetings.cfm> .

Mr. Malloy compared the SCP Program, TSCA, and the European Union Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) in terms of their scope, prioritization, testing, process, and response. He said there was plenty of work for all three agencies, noting that during the next 30 years TSCA was likely to act on a very small percentage of the chemicals known to pose threats. He explained the TSCA pre-emption: states may not restrict a chemical to the extent that U.S. EPA has acted; they may not restrict a chemical while U.S. EPA was engaged in a timely risk evaluation process; and they may not require the development of information reasonably likely to produce the same information required by U.S. EPA. However, he said the states may restrict a chemical to address a different risk than U.S. EPA addressed or in accordance with a federal waiver. Mr. Malloy said he believed DTSC could take a great deal of robust action under the SCP regulations even if U.S. EPA acted on a chemical. He said personal care products were exempt from TSAC, and therefore DTSC was free to restrict them. He said the Alternatives Analysis Guide went a long way toward addressing knowledge gaps that a DTSC-funded UC scoping project identified two years earlier for the program. He said the SCP Program currently was a learn-by-doing process and that the first submitted analyses would take a great deal of work on the part of the manufacturers and DTSC, but would be very helpful in answering questions. He predicted that what was learned would find its way into future versions of the guidance document. He said that trying to be clearer about the knowledge gap factors at this point would amount to spinning wheels and that it was time to go to work on a few analyses. He acknowledged that program implementation was slow, but said it was important to understand how disruptive and transformative the program was. Mr. Malloy said he believed the statute was cumbersome and excessively ambitious, but he said that DTSC was doing a good job of “taking this monster and making it manageable.” He said DTSC had established a solid framework to move ahead, but that more funding and staff resources would be needed when the program was up and running and dealing with numerous products. He suggested that policymakers consider matching the responsibilities that are put on the program with sustainable funding.

In response to a question from Chair Kracov, Mr. Malloy said the program could be improved by requiring review standards. He said the Alternatives Analysis Guide required manufacturers to be explicit about tradeoffs between different outcomes, but was ambivalent on what weightings were

acceptable. He acknowledged that taking a stand would be a challenge because determining the relative importance of different outcomes would be a value judgement.

Panel Member Campbell agreed that review standards seemed necessary, but suggested they come from the Legislature.

Mr. Malloy said that one of the statute's goals was to encourage reflection. He said the Alternatives Analysis accomplished that. However, he said that some manufacturers may ask less of themselves in terms of identifying alternatives than others. He said that if California wants a program that has a reflective function and one that requires the use of safer alternatives when they are available, clear authority for the Department was needed.

11. Presentation on DTSC Safer Consumer Products Program by Helen Holder, Hewlett-Packard Company Master Engineer, Leader of the HP Global Environmental Materials Team, and Member of the DTSC Green Ribbon Science Panel

Ms. Holder said that the idea that manufacturers should look for safer alternatives was a new one in the 1990s. She said green chemistry experts have recognized for some time that most tradeoffs were value judgements. Consequently, she said that transparency was very important in the analysis process. She asserted that DTSC had the prerogative to make such judgements in the current regulations. Ms. Holder said she would like to see a uniform playing field and did not want to give an advantage to a manufacturer that didn't do a good job with the analysis. However, Ms. Holder said she supported the basic premise of the Alternatives Analysis approach.

In response to a question from Chair Kracov, Ms. Holder discussed the role of the Green Ribbon Science Panel in advising DTSC on reducing adverse health and environmental impacts of chemicals used in commerce. She said that DTSC had done a good job of incorporating the panel's advice and that the panel's goal was to meet twice a year.

Chair Kracov asked Ms. Holder to assess how the SCP Program was working.

Ms. Holder responded that the program was going well. She said many people wanted DTSC to move faster, but that the program had to start small to get the fundamentals right. She said there was a question about how DTSC would scale the program up at some point in the future.

Chair Kracov adjourned the meeting for a lunch break at 1:07 p.m. and reconvened it at 1:38 p.m.

12. Presentation by Dawn Koepke of McHugh, Koepke & Associates, Sacramento, Chair of the Green Chemistry Alliance, and Member of the DTSC Hazardous Waste Reduction Initiative Advisory Committee, and John Ulrich, Executive Director of the Chemical Industry Council of California, on From Politics to Science: Implementing a Workable, Science-Based Approach to Chemical-Product Analysis and Regulation.

A PowerPoint version of the presentation is available on the IRP website at:
<https://www.dtsc.ca.gov/GetInvolved/ReviewPanel/Meetings.cfm> .

Ms. Koepke said the Green Chemistry Alliance (GCA) was an ad hoc, "sweat equity" collaboration of trade associations and individual companies that spanned the chemical supply chain and cared about the SCP Program. She said it was focused on the SCP process rather than on

the individual chemical-product combinations.

Mr. Ulrich said he wanted to re-affirm his support for the SCP regulation and the job that DTSC was doing to implement it. He summarized GCA's history of involvement and support for DTSC's Pollution Prevention Program, the Green Chemistry Initiative, and SCP regulations development. He said one important reason the chemical industry supported the SCP Program was because both the initial legislation and the subsequent regulation avoided chemical-by-chemical legislative bans as well as the potential for regrettable substitutions.

Ms. Koepke said it was important for DTSC to manage expectations, especially since, by design, every regulatory action would not lead to a ban.

Chair Kracov asked Ms. Koepke if she agreed with Mr. Malloy's suggestion that the Alternatives Analysis could be improved by requiring review standards.

Ms. Koepke responded that doing so would be concerning because it could limit DTSC's ability to make determinations based on science and reduce the Department's flexibility.

In response to another question from Chair Kracov, Ms. Koepke said that the program should not be judged in terms of how many Alternatives Analyses were submitted, how quickly they were submitted, or what the regulatory responses were. She said success should be defined more broadly to include market movement in response to signals set.

Ms. Koepke said industry currently was trying to understand the regulatory requirements, liabilities, and opportunities. She said there was still significant apprehension about the program in the business community. She asserted that much was being done to move the market in response to the program, but that it was difficult to attribute market changes directly to it. She concluded that DTSC was thus far implementing the program in accordance with the regulation, that it was the appropriate agency to manage the program, that it must be allowed to fully implement the program as designed, that it must learn from the experience, and that legislative initiatives should be discouraged if they would circumvent scientific evaluation and the avoidance of regrettable substitutes.

In response to a question from Vice Chair Vizzier, Ms. Koepke said market effects in response to the program were difficult to quantify because many companies did not want to highlight the chemical-product changes they make.

In response to a question from Chair Kracov, Ms. Koepke said DTSC was better situated than the Office of Environmental Health Hazard Assessment (OEHHA) to do this work because of the former's experience with lifecycle considerations.

Chair Kracov noted that Ms. Koepke served on the Community Protection and Hazardous Reduction Initiative Advisory Committee (Advisory Committee) and asked her for observations about the initiative.

Ms. Koepke responded that the process was very collaborative and that she learned a great deal from her involvement. As an example, she said she learned that not everyone in the environmental justice community agreed on how hazardous wastes, such as contaminated soils, should be handled.

Public Comment:

Kelly Moran of TDC Environmental LLC and co-chair of the 15-member DTSC Green Ribbon Science Panel said she had a Ph.D. in chemistry and worked with DTSC, water boards, and municipalities on pollution prevention. She said the SCP Program was different from other DTSC programs and had the potential to offer greater benefits than the Pollution Prevention Program. She said that was why a decision was made to emphasize it over the latter. She said that while the Green Ribbon Science Panel only met twice a year or less frequently, there was a great deal of interaction between individual panel members and DTSC staff members. She said the meeting agendas were not solely set by DTSC. She said the composition of the panel had changed over time as the program developed and the skill set needs changed. She said the panel was increasingly positive about the program. She said the current program management was the most talented she had seen and that the program was internationally trend-setting. She said the panel consisted of scientists and experts and that it was not a stakeholder discussion group. Ms. Moran said she learned in her career that most water pollution was linked to consumer products. She said that a regulatory backbone was essential for pollution prevention and that simply the threat of regulation could be sufficient. Ms. Moran said that was the reason she was accepting of the transfer of resources from pollution prevention to SCP. She said DTSC was the appropriate agency to manage the SCP Program because it was a regulatory agency and had the necessary enforcement, communication, and other risk management resources. She said that metrics were typically assigned to ongoing programs, but the SCP Program was still in development. However, she said there were program milestones in the legislation and regulations that could be used to evaluate progress. She suggested the consideration of a future program evaluation point or points. She also suggested the consideration of metrics for each product-chemical combination as they go through the regulation process, such as the content of hazardous chemicals in the products on the market or pollution declines in the environment, although she acknowledged that gathering information on that objective would be time consuming. She said the SCP Program could use more resources and that consideration should be given to finding sources of additional funding. Finally, she said that competitive salaries were needed for staff scientists.

13. Presentation by Kathryn Alcantar, Executive Director of Californians for a Healthy & Green Economy (CHANGE), on California's Safer Consumer Products Program: A Path to Reducing Toxic Chemicals in Products

A PowerPoint version of the presentation is available on the IRP website at:
<https://www.dtsc.ca.gov/GetInvolved/ReviewPanel/Meetings.cfm> .

Ms. Alcantar said CHANGE was a California-based, national coalition founded in 2006 to work on chemical policy reform. She said it was appropriate for the SCP Program to be housed under DTSC rather than another agency and that Department staff were available and responsive to members of her organization as well as vulnerable communities. She praised the Alternatives Analysis Guide and said the identification of Priority Products had the potential to spur innovation. She said DTSC had the authority to call in data from industry and that it was important for the Department to use that authority. She said DTSC had authority to address chemical classes, not just individual chemicals, and that the Department should use that authority. She said the program had insufficient resources and that this problem could be remedied by providing it with fee authority. She expressed concern about program delays and said they could undermine the intent of the program by allowing a continuation of "whac-a-mole." She said the program could have a much greater impact on public health than it has had to date. She said that CHANGE submitted a petition in September of 2016 to add Bisphenol A (BPA) in canned food and beverages to the Priority Products List. Ms. Alcantar said she appreciated the opportunity to petition, but that it took significant resources to do so, and that a decision had not yet been made on the petition.

Public Comment:

Andria Ventura of Clean Water Action said that as a person who works on water quality, she believed that California could not treat its way out of pollution problems and that harmful chemicals should be stopped at the source. She said DTSC was the right place for the SCP Program because it had the expertise to deal with harmful chemicals. She said that while there were many people in industry who wanted to do the right thing, action without regulation had not been very productive in the past. With respect to increasing fees from chemical manufacturers, she said companies were making money from products with toxic chemicals in them and should answer for that. She said the program gave everyone a voice, including the Legislature, and that this was appropriate because the Legislature had the right to represent individuals who did not have the capacity to submit the necessary data to avoid being exposed—like guinea pigs in the lab. She said she was concerned that the regulatory process forced DTSC to prove something when prompt action was needed, even though everything about a chemical may not be known. She said she looked forward to a time when DTSC could move faster, with more products and impacts.

Bill Allayaud of the Environmental Working Group voiced support for the program and said he was pleased at the numerous workshops and other public participation opportunities. On the negative side, he said the program did not have enough staff, and he suggested that small fees be assessed on products that DTSC was investigating to increase funding. He said the Legislature had a right to address a single chemical or require DTSC to do something faster or differently, since that body created the program in the first place.

Chair Kracov adjourned the meeting for a break at 3:55 p.m. and reconvened it at 4:02 p.m.

14. DTSC Presentation on the Community Protection and Hazardous Waste Reduction Initiative

DTSC Policy and Program Support Division Chief Rich Brausch gave a presentation entitled Community Protection and Hazardous Waste Reduction Initiative Update. A PowerPoint version of the presentation is available on the IRP website at:

<https://www.dtsc.ca.gov/GetInvolved/ReviewPanel/Meetings.cfm> .

Mr. Brausch said the initiative had as its goal to select three pilot projects to reduce hazardous wastes that were generated in significant quantities, could pose substantial risks or hazards to human health or the environment, and were treated or disposed of in communities that were disproportionately burdened by multiple sources of pollution. To implement the initiative, he said his division reached out to other DTSC programs, other government agencies, a nine-member Advisory Committee, impacted communities, and other stakeholders. He said DTSC presented the Advisory Committee with information on trends in hazardous waste shipped offsite, trends in hazardous waste disposal to landfills shipped offsite, and in-state versus out-of-state trends in where California sent hazardous waste for land disposal from 2000 to 2015. He said DTSC also presented the Advisory Committee with a list of the top 10 hazardous wastes produced in 2015. He said contaminated soil from site cleanup (575,000 tons) was at the top of that list. He said the Advisory Committee nominated more than 10 pilot projects after reviewing this information and some discussion. He said the committee and DTSC then developed pilot project selection criteria to narrow them down to a manageable number. He said the criteria required the projects to be: (1) technically feasible, implementable, scalable, and measurable; (2) involving larger volumes of toxic wastes; and (3) a benefit to impacted communities. He said the pilot projects subsequently were narrowed down to four topics: (1) lead-acid batteries, (2) contaminated soils, (3) petroleum refinery

wastes, and (4) organic solvent wastes. He said the pilot project methodology involved data gathering, source reduction documents prepared by generators, and solicitation for proposals/partnerships. He said DTSC would issue a report to summarize the process, provide an overview of the waste topics, and present findings and recommendations.

Mr. Brausch mentioned several observations made from the initiative with respect to contaminated soils: (1) each community near a contaminated site was very different; (2) there was a growing trend for communities to be more involved in cleanup decisions and for their preferences to carry more weight; (3) there was a growing desire for more communication between communities that are near contaminated sites and those that are near the destination sites; (4) external or indirect costs of excavation and disposal often were not taken into account in evaluating cleanup options, such as the cost of providing community healthcare associated with diesel emissions; and (5) there were opportunities to work with vendors and responsible parties to develop technologies to treat contamination on site.

Mr. Brausch said the initiative evaluated a soil washing technology to clean up lead contamination in a community near the Exide Technologies facility in Vernon. He said its effectiveness was dependent on the soil composition and, in this case, did not avoid the need for excavation and disposal. Mr. Brausch said the initiative also evaluated the use of supercritical water oxidation on contaminated soils. However, he said the cost of a treatability study was determined to be prohibitive. Finally, Mr. Brausch said the initiative evaluated an evaporative desorption technology for removing contamination in soils. He said this technology had already been demonstrated to meet protective cleanup goals and offered the most promise.

Mr. Brausch said community representatives on the Advisory Committee suggested a community dialogue on the management of contaminated soil.

On the subject of lead-acid batteries, Mr. Brausch said it was observed that there were limited commercial alternatives as well as minimal recycling and disposal options at the present time. However, he said the initiative reviewed proposals to reduce lead content in batteries, extend battery life, and recycle with non-smelting techniques.

With respect to refinery wastes and organic solvents, Mr. Brausch said it was observed that: (1) sharing best practices between generators could result in reductions, (2) additional onsite treatment and recycling could occur if regulatory barriers were examined, and (3) improving employee training and equipment maintenance could improve many generator reductions.

Mr. Brausch also made several overall observations. He said consideration perhaps should be given to going beyond the existing requirement for generators to develop source reduction plans, the implementation of which was voluntary. He said there were some pollution control technologies that could be mandated. He said there was no current requirement for generators to use alternative technologies, reduce hazardous waste generation, or use less toxic alternatives. He said external or indirect costs often were not taken into consideration in waste reduction decisions. He said economic factors played a role in waste reduction decision making, but further study was needed since they vary according to business types. He said the role of local government and CUPAs had expanded significantly since the state's waste reduction laws were enacted and that the role of CUPAs in helping businesses achieve waste reductions should be explored. He said there was no public involvement in the source reduction plans prepared by generators and that this subject may be worthy of exploration.

Mr. Brausch said DTSC hoped to release the report by June 30, 2017.

Public comment:

Chuck White of the Solid Waste Association of North America and the California Resource Management Association said that increasing fees on in-state disposal of hazardous waste would result in more of it going out of state, where it often was not considered hazardous.

Director Lee said DTSC was grappling with how to incorporate costs that were normally externalized into decision making on the treatment and disposal of hazardous waste. For example, she said that supercritical water oxidation of contaminated soil was more expensive than disposal, but there were downstream costs to disposal, and those costs were incurred by people who did not create the waste.

Cynthia Babich of the Del Amo Action Committee thanked Mr. Brausch for his report.

15. IRP Reporting Requirements

Chair Kracov said he would not be available for a meeting in July.

Vice Chair Vizzier said he preferred that the other two Panel members not make decisions on the report to the Governor and Legislature that was due on July 20, 2017 without the Chair's participation.

The IRP agreed to comply with the statutory requirement to submit a July 20, 2017 report by submitting a one or two-page report explaining that the Panel intended to submit a subsequent, more in-depth report on consumer products and source reduction.

16. Organizational, Operational, and Administrative Matters

Chair Kracov referred to a recent DTSC report to the IRP on the Department's May/June 2017 achievements. He said it reflected an impressive number of accomplishments.

Chair Kracov said there was no need for DTSC Chief Deputy Director Francesca Negri to answer questions about the Organizational Excellence update that she submitted to the IRP on June 13, 2017.

Chair Kracov suggested that the August 2017 meeting should be devoted in large part to a discussion of how the IRP should evaluate DTSC's progress in light of the IRP's recommendations and suggested performance metrics.

Panel Member Campbell agreed and said the IRP should organize its thoughts on how to evaluate DTSC at the August meeting.

Chair Kracov reported that he had initiated discussions on this subject with DTSC. Chair Kracov said he planned for the IRP members to have in front of them at the August 2017 meeting the tracking information on DTSC's response to past recommendations and suggested performance metrics as well as the information on deliverables from recent DTSC budget change proposals.

Chair Kracov asked about the status of the Health and Safety Code (HSC) section 57007 report.

Ms. Negri responded that the report was under review.

Chair Kracov replied that the report was six months late, that the IRP was required by statute to advise the Department on compliance with HSC section 57007, and that the Panel had not yet had a chance to review it. He said this harmed the Panel's credibility.

Director Lee responded that she had no quarrel with the observation that IRP was charged with advising DTSC on the report. However, she said HSC section 57007 did not indicate how DTSC was to report on the extent to which it had attained its performance objectives and on its quality improvement efforts. She said DTSC had been regularly reporting to the IRP on the Department's efforts to implement quality governmental programs. She said DTSC was in the final review stages of a report on what it had been doing the past two years and was looking forward to sharing it with the IRP. She said the IRP could be very credible in claiming success in working with DTSC to have the Department report on its implementation of quality governmental programs. She said the IRP had done a very good job of having the Department provide that information and should feel good about that. Director Lee said she hoped the IRP would see the report by June 30, 2017.

Panel Member Campbell agreed that DTSC had done a significant amount of reporting to the IRP.

Vice Chair Vizzier noted that he had heard good things from the Governor's Office, the Legislature, and U.S. EPA Region Nine about the IRP's work to date. Vice Chair Vizzier also said he had seen evidence that DTSC was being turned around, even though turning around a large governmental organization was difficult to do.

The IRP agreed to reschedule the DTSC presentation on the Public Work Plan to the September 2017 or the October 2017 meeting.

The IRP agreed to ask DTSC to give the presentation on lessons learned from Exide Technologies at the October 2017 or November 2017 meeting.

With respect to the IRP-suggested performance metrics for the DTSC Permitting Program that were coming due on June 30, 2017, the IRP agreed to postpone a reporting on them until September 2017 at the earliest.

The IRP next turned its attention to the proposed IRP assessment survey. The Panel agreed to delete several questions from the April 4, 2017 draft survey.

Mr. Singh described the three lists in the possession of IRP support staff that could be used for the survey: (1) the list of IRP contacts that was used for the Panel's 2016 survey, (2) the IRP's EList, and (3) a list of everyone who had given testimony at an IRP meeting.

The IRP decided to send the survey to individuals on all three lists, to invite those individuals to forward the survey to colleagues, to provide a link to the survey from the Panel's website, and to send the survey to key committee consultants in the Legislature.

17. Future Meeting Schedule and Agenda Items

The IRP decided to hold its next meeting on August 9, 2017 at the CalEPA Building in Sacramento.

The IRP agreed that the Panel would continue to discuss the consumer products and source reduction topics at the August meeting. However, the IRP decided that there would be no need for additional presentations on those topics at future meetings.

The IRP decided to ask DTSC for a presentation on the enacted 2017-18 state budget as it applied to DTSC at the August meeting.

The IRP agreed to discuss at the August meeting whether to schedule a subsequent meeting in Bakersfield.

Chair Kracov suggested that the IRP possibly conduct evaluations of its support staff members during closed session at the August meeting. He asked Vice Chair Vizzier to determine the IRP's obligations with respect to staff evaluations, discuss with Deputy Attorney General Goldman, and report on what he learned at the August meeting.

Chair Kracov said Mr. Rohlfes could ask IRP members to submit recommendation ideas for the subsequent report on consumer products and source reduction prior to the August meeting.

The IRP agreed that Mr. Rohlfes should write a draft report on source reduction and consumer products for either the August or September IRP meetings. Chair Kracov said he would discuss with Mr. Rohlfes whether a draft report should be submitted for the August or September meeting.

The IRP agreed to meet in San Diego on September 11, 2017.

Vice Chair Vizzier suggested the scheduling of several brief, San Diego area-specific presentations at the September meeting that total no more than an hour to an hour and a half in length.

The IRP agreed to discuss a "game plan" for the remainder of the year at the August meeting.

18. Closed Session

There was no closed session.

19. Reconvene and Report on Closed Session

There was no closed session.

20. Adjournment

Motion: Adjourn meeting. Panel Member Campbell moved. Vice Chair Vizzier seconded. The motion carried unanimously.

Chair Kracov adjourned the meeting at 5:43 p.m.