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Testimony to the Senate and Assembly Committee on Environmental Conservation on Recycling-Related Issues Testimony by Adrienne Esposito, Executive Director, Citizens Campaign for the Environment (CCE)

Manhattan, NY

October 21, 2019

Good afternoon and thank you for the opportunity to provide testimony today. My name is Adrienne Esposito, and I am the Executive Director at Citizens Campaign for the Environment (CCE). I am here today on behalf of CCE's 120,000 members throughout New York to provide recommendations on addressing the challenges of the current solid waste crisis facing our State.

CCE applauds Chairman Englebright and Senator Kaminsky for holding this important hearing today. Furthermore, we thank you for taking important steps to address solid waste problems during the 2019 legislative session—including banning plastic carryout bags and establishing a program to require recycling and the distribution of excess food. While we took important steps in 2019, much work remains in 2020.

The current situation is labeled as a "crisis," however it should also be viewed as a wakeup call and an opportunity. There are a number of funding and policy initiatives that the legislature and Governor can advance in 2020 to address the recent challenges and ultimately improve recycling, solid waste management, environmental protection, economic development, and job creation in our state.

The Problem: How Did We Get Here?

At the local, state, national level—we are all experiencing a solid waste and recycling crisis. Instead of creating our own markets for recycled materials and developing our own infrastructure, we relied on sending our recyclables to China and other overseas markets. Since 1992, 106 million metric tons—45% of the world's plastics—have been sent to China for

recycling. The U.S. alone sent 26.7 million tons of plastic to China from 1988-2016¹. In January of 2018, China closed its door and stopped taking the world's recyclables, including New York's paper and plastic. New policies implemented by China are causing a ripple effect throughout the globe, including New York State. Municipalities that were once getting paid for their recyclables, now have to pay to recycle them. Markets routinely fluctuate, but we have now entered a new normal—a new normal that needs new, innovative solutions.

In 2013, China launched "Operation Green Fence." The policy was aimed at increasing environmental quality by reducing waste importation and contamination in recyclable materials. In 2017, China instituted the "National Sword" policy. This policy further restricted the quality of material entering the country. As a result of these policies, China banned the import of many recyclable materials, including post consumer plastic and mixed paper, on January 1, 2018. The policy also lowered contamination rate for recyclables for items such as cardboard and scrap metal to 0.5%. Contamination rates were previously as high as 3 percent. In August of 2018, China imposed 25-50% tax on many recyclables from the U.S., including cardboard, other recovered fiber, metals, and plastics.²

Compounding the problem, many municipalities switched from duel stream recycling to single stream recycling before China implemented its new policies. The process of single stream recycling mixes all recyclables together in one container—plastic, metal, paper, glass, and cardboard. This increases the quantity of recyclables; however, the quality of recyclables is diminished. Glass mixes with paper and cardboard and liquid left in plastic containers also contaminates paper. Municipalities that switched to single stream are unable to meet stringent contamination rates imposed by China. On Long Island, Green Stream Recycling, a single stream recycling company dissolved unexpectedly. They could no longer afford to run Brookhaven Town's recycling facility because of collapsing commodities prices streaming from China's decision to curtail purchases of U.S. recyclables³.

Also compounding the problem is so-called "wish-cycling", or recycling items one "wishes" are recyclable. Residents, believing they are acting responsibly, place items such as plastic bags, metal hangers, garden hoses or old toys into the recycling bin. These items contaminate recyclables and cost companies money to remove from the waste stream and provide proper disposal.

Prior to China's stricter recycling policies, ships that imported goods to the U.S. would be loaded with our recyclable materials and sent to back to China. It was a cost effective way of recycling our recyclable post consumer waste. Countries such as Malaysia, India, Thailand, and Vietnam

¹ Watson, Sarah Kiley, "China has Refused to Recycle the West's Plastics. What Now?" NPR. June 28, 2018. https://www.npr.org/sections/goatsandsoda/2018/06/28/623972937/china-has-refused-to-recycle-the-wests-plastics-what-now

²Washington Refuse & Recycling Association https://www.wrra.org/current-news/

https://www.newsday.com/long-island/suffolk/brookhaven-green-stream-recycling-1.22608627

are accepting some of the world's recyclables, but they are not capable of completely replacing the large quantities that went to China. Additionally, shipping to these other countries is far more costly⁴. A study published in the Science Advance in June 2018 estimates that 111 million metric tons of plastic waste will be displaced by 2030 due to the new policies implemented by China⁵; 111 million metric tons of plastic that will have to be recycled in a different way.

China's National Sword program is often cited as the cause of our solid waste problems; however, the truth is, we have nobody to blame but ourselves. Single stream recycling increased the amount of recyclables collected, but led to poor quality. A lack of public education and the practice of "wish-cycling" led to increased contamination of recyclables. Recycling infrastructure is aging and in desperate need of upgrades. A lack of development in our own markets has forced us to rely on overseas markets. China's policy is now forcing us to manage our own long-standing problems. Frankly, if China can recycle paper, metals and plastics so can we.

The Impacts of our Solid Waste and Recycling Crisis in New York

From Western New York to the East End of Long Island, communities across the state are struggling with the solid waste, environmental, and financial costs of this crisis. Just some of the examples across the state:

- St. Lawrence County is struggling and had a \$127,000 budget shortfall recently due to higher recycling costs.
- Casella is losing \$47 per ton on recyclables and is looking for ways to subsidize costs at the MRF it operates for Ontario County. That could include a new step of charging fees for commercial material from outside the county.
- The Capital Region Recycling Partnership, comprising 13 cities, is currently negotiating with County Waste for a better rate after its prices increased sharply.
- Recycling costs for communities sending material to the Beacon ReCommunity MRF, now owned by Republic, are on the rise. Beacon is now paying \$65 per ton of mixed paper and Cold Springs is paying \$67 for recyclables.
- The Onondaga County Resource Recovery Agency is projecting a deficit of \$2.5 million next year and could raise rates at its WTE facility to help offset that.
- Brookhaven, which currently accepts material from multiple Long Island municipalities including Smithtown, is facing questions about whether its current contract with Green Stream will be renegotiated due to market conditions.
- Columbia County may begin charging residents \$50 per year to access recycling drop-off services. The county already spent its annual recycling budget as of July.

⁴ Phillips, Erica, "US Recycling Companies face Upheaval from China Scrap Ban" Wall Street Journal. August 2, 2018.

⁵ Brooks, Amy, Wang Shunli, & Jambeck, Jenna, "The Chinese import ban and its impact on global plastic waste trade." Science Advance June 20, 2018.

- In 2015, the first comprehensive global count of plastic trash was published, which concluded between four and 12 million metric tons of plastic slips off the coastlines and into the oceans every year.
- A recent study by the Rochester Institute of Technology estimated that 22 million pounds of plastic enter the Great Lakes annually, including 5.5 million pounds into Lake Erie and 3 million pounds into Lake Ontario. Much of the plastic that floats in the Great Lakes consists of microplastics, which can be consumed by fish and enter the food chain.

Focusing on Solutions

We are facing waste challenges across NYS, but we also have chance for new opportunities; a chance for new solutions, new policies, and a renewed focus on reducing our waste stream and making our communities more sustainable.

The hierarchy in New York's Solid Waste Management Act of 1988 continues to reign true today. **First, reduce; second, reuse; third, recycle**; and lastly, dispose of through landfills or incineration. Recycling and solid waste management have created challenges; however, we can meet these challenges by supporting policies and actions that embrace waste reduction, reuse, recycling and composting. Implementing these policies will have significant societal benefits, including but not limited to: energy savings, pollution and litter reduction, reducing the amount of waste going to landfills and incinerators, reducing greenhouse gas emissions, saving natural resources, and fostering economic development in New York State.

Policy and Funding Recommendations

Policy changes at the state level can help to address New York's ongoing solid waste crisis, save valuable natural resources, drive economic development, and protect the state's environment. CCE recommends that New York State consider the following funding and policy initiatives in the 2020 legislative session:

1) Fund a robust, statewide recycling education program

New York State should significantly expand education on recycling, focusing on the general public and businesses, as well as schools and municipalities:

• Educating the Public to "Recycle Right" (and Stop "Wish-cycling")

A growing part of our recycling problem is actually built on good intentions. For decades, the public has been told how important it is to recycle, and the message has clearly gotten through. Recycling is part of our civic duty. Unfortunately, people often put much more in their recycling bin than they should. "Wish-cycling," or throwing items in the recycling bins that the public hopes are recyclable or think should be, often causes much more harm than good. Throwing items in the recycling bins that do not belong there can contaminate inbound streams of recyclable materials, causing massive amounts of recyclable materials to

be sent to landfills instead of being recycled. Contaminated recyclables cause a host of other problems, from slowing down manual sorting of recyclables, to breaking machinery, to degrading the quality of recyclable materials.

The good news is that this problem of "wish-cycling" can largely be addressed with educating the public to "recycle right." While recycling programs vary from municipality to municipality, there are tips that can help every New Yorker make better decisions about recycling. A statewide, robust, and *uniform* public education campaign would provide New Yorkers more information on best practices that will improve recycling in New York. Examples include, but are not limited to, what to throw in your bin (e.g. empty aluminum cans, clean paper and cardboard, empty plastic bottles and jugs with necks), what not to throw in your bin (plastic film bags, containers with food residue, wax coated cardboard), and best practices (e.g. rinse food containers before recycling, when in doubt—throw it out).

CCE commends the DEC for implementing a "recycle right" public education campaign throughout 2019, which is providing valuable information to help the public make better recycling decisions. While this is an important step in the right direction, the educational campaign is supported with only very limited resources, and is clearly not reaching a large enough audience to make a significant difference. *CCE recommends that the legislature provide financial resources that would allow DEC to conduct a much more robust public education campaign that reaches all New Yorkers*.

• Promote Standardized Recycling across New York Municipalities

A significant source of confusion among the public about what is actually recyclable is perpetuated by inconsistent recycling instructions from community to community, and even inconsistent labeling from recycling bin to recycling bin. While there will be some variation among municipal recycling programs across the state, there are certain aspects of recycling that are consistent and much could be done to provide more standardized labels/ recycling instructions to the public. Since most people get their information on what to recycle/what not to recycle from the municipality in which they live, New York State should develop standardized messaging and recycling instructions, which municipalities can include in outreach to their residents. New York State should provide grant funding to local governments to incorporate this information and to help expand local recycling educational efforts.

2) The DEC Needs to Develop a Standardized Recycling Reporting System for NY State Municipalities.

There is no standardized reporting system established for municipalities to assess or calculate recycling rates. Therefore, municipalities report wide and varied "recycling" data. For instance,

the Town of East Hampton includes horse manure in its recycling. The weight of this material clearly increases the "amount" of materials recycled. Other Towns include grass clippings and brush. It is unfortunate that the largest town in America, the Town of Hempstead, still collects grass clippings. Towns in Suffolk stopped collecting grass clippings and therefore don't include them in recycled data. The lack of standardized reporting has lead to a severe lack of accountability in recycling. How can we know how effective each municipality's recycling program is, if it cannot be measured in a meaningful way? The answer is – we can't and we don't know. It is essential to assess each recycling program with a uniform reporting system. This would allow the state to track real recycling rates and track them each year. It would allow us to assess the impact of educational programs and other state implemented plans. It will also make municipalities more accountable for their recycling rates.

3) Enact Extended Producer Responsibility (EPR) for Packaging and Printed Paper (PPP)

Our testimony will touch on a number of ways that New York State can advance solid waste reduction, recovery and recycling—through smaller, incremental change that will undoubtedly improve the current solid waste system. However, there is one large-scale solution that would create a much-needed, significant transformation to the entire system—extended producer responsibility (EPR) for packaging and printed paper. *If New York State is serious about truly addressing our solid waste woes, and not merely applying band aids, EPR must be considered in the 2020 legislative session.*

Packaging and printed paper constitute a significant portion of the solid waste stream in New York State—approximately 40%—much of which is not being recycled. Policy changes in China that restricted the importation of recyclable packaging and printed paper materials have significantly increased the costs for local governments and taxpayers to manage and dispose of these materials. Local governments in NYS are tasked with achieving waste diversion goals—increasing costs to taxpayers however, manufacturers currently bear no responsibility in reducing the waste that they create. Large brands have externalized the cost of disposing of packaging onto our municipal recycling programs. For example, an estimated 165 billion packages are shipped in the U.S. every year, with the cardboard used roughly equating to more than 1 billion trees.⁶ Companies (think Amazon and Blue Apron) currently bear no responsibility in dealing with the packaging waste that there business creates.

Extended Producer Responsibility (EPR) would require producers (brand owners) to take responsibility for their products throughout their entire product life cycle, by bearing the cost of proper recycling and responsible disposal for packaging and printed paper. Not only does this provide relief to taxpayers, it also serves as an incentive to producers to minimize packaging

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⁶Can Online Retail Solve Its Packaging Problem? Adele Peters, Fast Company, April 20, 2018. https://www.fastcompany.com/40560641/can-online-retail-solve-its-packaging-problem

materials, improve recyclability, and reduce the toxicity of their products. Packaging EPR policies have existed in Canada and the EU for decades, and have resulted in recycling rates upwards of 80%.

In 2014, British Columbia adopted a packaging EPR law, which now stands as a shining example of success. In 2017, Recycle BC, (the industry funded non-profit organization comprised of over 1,100 companies including manufacturers, retailers, restaurants and first importers that supply packaging and paper to BC residents) recovered approximately 175,000 tons of packaging and paper products from 3.5 million residents, amounting to a recovery rate of 75%. The majority of collected material was sold to end-markets for use in the manufacturing of new products and packaging. Even with the China Ban, the Recycle BC program remains successful. British Columbia's EPR program has garnered improved environmental outcomes by collecting larger quantities of packaging and paper products with lower rates of contaminations. Subsequently, the material is managed more efficiently and responsibly. This program saves local governments an estimated \$100 million annually by shifting the responsibility to the producers of packaging and paper products.

New York State already has EPR policies for e-waste, mercury thermostats, and rechargeable batteries, and most recently, pharmaceutical drugs. Enacting EPR for packaging and printed paper is logical next step, and would help address the state's solid waste problems, while benefiting the environment and providing relief to taxpayers.

The New York State legislature should enact an EPR program for PPP in the 2020-21 SFY budget. Key aspects of the EPR program would include:

- Consumers purchase from brand owners, and brand owners then finance a Product Responsibility Organization (PRO) to collect and recycle materials.
- Similar to other stewardship programs, the PRO would operate and manage recycling programs, while the state government would provide oversight. Stewardship plans—which may include issues such as exactly what materials are collected, program structure, and performance measures—would need to be completed by the PRO and approved by the state prior to program implementation.
- The PRO operates an integrated recycling program with a more standardized and potentially broader material list, which will help improve public understanding of how to "recycle right" and improve recycling performance.
- The PRO can contract with a municipality to continue conducting recycling pickup, or have PRO haulers collect recyclables on their behalf.
- A processor sorts and sells covered materials (under a PRO contract).

⁷ RecycleBC, Annual Report 2017, https://recyclebc.ca/wp-content/uploads/2018/06/RecycleBCAR2017-June292018.pdf

4) Expand Markets for Recyclable Materials

In order to increase recycling, there must be a market for recycled materials. Two important ways in which the state can achieve this is through requirements for post-consumer recycled content and state procurement.

As proposed in legislation (A.5028a / S.2129a) to expand the Bottle Bill, at a minimum, the state should require, by 2022, every glass beverage container to contain a minimum percentage of 35% post-consumer glass and every aluminum beverage container contain a minimum percentage of 35% post-consumer aluminum. By 2025, every polyethylene terephthalate (PET) beverage container shall contain no less than 25% post-consumer PET. By 2030, every plastic beverage container shall contain no less than 30% post-consumer plastic.

New York State can also use its purchasing power to favor products with more recycle materials. Whether through state legislation, or through existing authority under executive order, New York State should procure products with a significant percentage of post-consumer recycled content.

5) Expand and Modernize the Bottle Bill

New York State's Returnable Container Law (aka "the Bottle Bill") was enacted in 1982, and after 37 years of existence, stands as one of New York's most successful and impactful environmental laws. The program established a 5-cent refundable container deposit on beer, malt liquor, wine coolers, and carbonated soft drinks sold in a metal, glass, paper or plastic container that are less than 1 gallon in volume. The Bottle Bill was updated and improved in 2009 to include bottled water, and to direct 80% of unclaimed deposits to be kept by the state.

The Bottle Bill has reduced roadside container litter by 70 percent. In 2016, the Bottle Bill helped to recycle 5.1 billion plastic, glass and aluminum beverage containers totaling more than 336,000 tons; at no cost to local governments. It is also important to highlight that a deposit is NOT a tax, it is a deposit—the bottle deposit is 100% refundable, and those that return their bottles don't have to pay a nickel. Despite the success of the Bottle Bill, more must be done to modernize this bedrock law in order to help address the solid waste crisis, reflect current markets, and further protect the health of our environment.

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⁸ https://www.dec.ny.gov/chemical/8500.html

New York State can improve beverage container recycling rates and support municipal solid waste reduction by modernizing and expanding the Bottle Bill in the 2020-21 state budget. At a minimum, CCE recommends that New York State:

- Increase the amount of the container deposit to 10 cents on each covered container. An increased deposit will yield higher return rates through the bottle deposit program. Michigan's 10-cent deposit has produced a return rate of 96% (New York's return rate in 2015 was 65%). Increasing the deposit to 10 cents will help further reduce litter, and will also reduce the amount of materials going in curbside recycling bins, thus reduce costs to local governments.
- Expand covered containers to include glass wine and liquor bottles. Many of the glass containers that are carefully cleaned and placed into recycling bins have been sent to landfills for years. Statewide, more than 122 million pounds of recycled mixed glass was used for landfill access roads and trash cover last year because there were no willing buyers.9

In contrast, glass materials collected under the bottle deposit system produce a higher quality post-consumer recycled product than glass collected through curbside recycling programs. Glass collected through curbside recycling programs is frequently heavily contaminated with paper, cardboard and other recyclables, which must be sorted mechanically. 10 Because of this, materials collected actually bring in significantly lower per-ton scrap revenues. Curbside glass, in fact, actually costs about \$20/ton to recycle, versus deposit glass that has a \$20/ton scrap value. 11

Including a deposit on glass wine and liquor bottles will provide significant financial relief to municipal recycling programs, while helping to ensure that glass bottles are actually recycled. Glass wine and liquor bottles can and must be incorporated into the current deposit system. Furthermore, the legislature should consider a higher deposit for wine and liquor bottles to incentivize the public to return for recycling—CCE recommends 25 cents per each wind and liquor bottle.

CCE has long supported expanding the Bottle Bill to include juices, teas, sports drinks, and other non-carbonated beverages. Including other beverage containers that are popular today would increase recycling, reduce plastic pollution, save energy, and reduce greenhouse gas emissions. CCE also understands that including a deposit on these beverage containers will largely remove them from curbside recycling bins, where they provide a valuable revenue stream for municipal recyclers at a time when they are struggling with significant budget shortfalls that threaten the viability of their recycling programs. CCE understands that this potential adverse impact to municipal recycling programs needs to be addressed before the Bottle Bill is expanded to other

⁹ https://www.democratandchronicle.com/story/news/2018/06/29/blue-bin-curbside-recycling-losing-moneynew-york-plastics-paper-glass-china-bans-imports/715017002/

^{10 &}quot;Cullet Comparisons." By Susan Collins, Resource Recycling magazine, February 2017. https://resource-recycling.com/recycling/2017/03/02/cullet-comparisons/11 "Cullet Comparisons."

non-carbonated beverages. However, we do not agree that simply providing municipalities with taxpayer dollars in the form of grants to reduce the financial impact of expanding the bottle bill is a prudent way to address this challenge. NYS DEC should study the actual financial benefits to municipalities of providing viable markets for glass and plastic which could allow municipalities to generate meaningful revenue from recycling even if an expanded bottle reduces beverage containers in the curb side collection programs.

6) Ban EPS Containers

One of the most problematic materials in our current waste stream is expanded polystyrene (EPS) foam, commonly referred to as Styrofoam. In addition to increasing public exposure to Styrene, a likely carcinogen, and contributing to the plastic pollution problem in our local waterways, EPS presents a large problem for recyclers. After EPS food and beverage containers are used and discarded, they are contaminated with food residue, compact during trash collection, and break into small bits. **These used EPS containers have no value in the recycling market.** After years of studying this issue, the New York City Department of Sanitation released a determination that EPS foam food and beverage containers cannot be recycled in "an economically feasible and environmentally effective manner." A recent court decision upheld DSNY's findings and allowed New York City to move forward with a ban on EPS containers, which will go into effect on January 1, 2019.

Despite the fact that these containers are not actually recyclable, many end up in curbside collections, where they end up contaminating other recyclables at municipal recycling facilities. The lightweight, broken pieces of EPS containers are extremely difficult to capture and remove during the sorting process and end up contaminating valuable recyclable streams, most often paper. Any EPS foam that is properly sorted and removed at these recycling facilities ends up being stockpiled at the facilities or landfilled at additional cost to the municipality. Although EPS makes up less than 1% of most municipal waste streams, it represents a huge problem for recyclers.

NYC, Ulster County, Albany County, Suffolk County, Nassau County, and over 100 other US cities have banned EPS containers. CCE recommends NYS take similar action ban EPS foam container on the state level.

7) Ban Unnecessary and Costly Single-Use Plastic Items

More than 40% of the plastics in use today are only used only once before being discarded. Single-use plastics contribute to plastic pollution in our communities and waterways, burden municipal solid waste management, cost taxpayers money, and are often completely unnecessary. Most single-use plastics are convenience items, for which there are sustainable, reusable alternatives. New York State took an important step to address the problems caused by single use plastics in 2019 by banning plastic carryout

bags; however, when it comes to plastic pollution, there are other "low hanging fruit" that legislature can address in 2020. CCE recommends that the legislature enact bans on:

- Plastic straws (available upon request)
- Plastic carryout containers and cups
- Small plastic shampoo bottles at hotels
- Intentional balloon releases

8) New York State Banned Plastic Carryout Bags! What now?

In 2019, the legislature and the Governor took a critical step in addressing plastic pollution by enacting a ban on plastic carryout bags statewide by March 1, 2020. This is a historic achievement for the state of New York and now, the difficult work of implementation lies ahead. Leading up to the plastic bag ban, conducting a robust public education campaign will be paramount to achieving the goal of a ban on plastic bags—to encourage the public to switch from single use carryout bags to the environmentally friendly and cost effective alternative—reusable bags. As environmentalists warned, few local governments have opted into a fee on paper bags therefore, it is critical to educate the public to opt for bringing their own reusable bags, rather than using a paper bags, which carries significant environmental impacts. CCE urges the legislature to provide the DEC with adequate resources to conduct a broad, robust public education campaign on the implementation of the state's plastic bag ban.

9) Incentivize the Phase-out Single Stream Recycling

Single stream recycling is a practice where residents mix all their recyclables together—glass, aluminum, plastic, cardboard, and paper. The recyclables are then taken to a facility to be sorted. This practice increases the amount of recyclables—a benefit when markets are profitable—but it adversely impacts the quality of recyclables. China's new low contamination rates are an extreme hardship for single stream operations. When the Town of Brookhaven switched to single stream recycling they saw their recycling rate increase by 25% ¹². Abruptly, Green Stream Recycling, a single stream company in the Town of Brookhaven, had to pull out of their contract, and owes the town \$1.7 million in unpaid fees and bills. ¹³ Towns like Huntington that had been able to sell their single-stream recycling to Brookhaven, are now paying to dispose of waste in private facilities. Nearly 22 percent of recyclable paper, plastic, cardboard and aluminum brought to the Brookhaven facility has gone to incinerators or landfills, double the rates of 2016 and 2017. Now the Town of Brookhaven has even halted its glass collection program.

Communities that have switched to single stream recycling cannot meet the stringent contamination requirements imposed by the new China policies and are left with undesirable

¹² Schwartz, David & MacGowan, Carl. "Recycling is piling up at LI facilities, as China puts limits on buying", Newsday. October 29, 2018

recyclables. Many communities are now looking to move away from single stream recycling and transition back to dual stream recycling; however, this will require a significant investment in transitioning recycling infrastructure. *CCE urges New York State to provide resources to municipalities to help fund this transition to dual stream recycling infrastructure.*

10. We need better visuals for recycling numbers.

As a community based organization, CCE does a lot of presentations and educational forums. Consistently we are told by the public that they simply cannot read the recycling number on the container. Many times it's too small, or it's printed on clear material making it difficult to see if it's a 1 or a 7, or a 3 or a 5. Sometimes containers have no recycle number at all. All of this causes members of the public to place the item in the recycle bin, thinking "better to be safe, than sorry." If would be advantageous for the state to work with companies and place the recycling number on labels or simply make them larger.