



**Bureau of Electronic and Appliance Repair,
Home Furnishings and Thermal Insulation
October 29, 2015 – Advisory Council Meeting Minutes**

Attendees:

- Council Members: Sharon Bradley, Industry
Donald Erwin, Industry (teleconference)
Burt Grimes, Industry
Timothy Hawkins, Industry
Judy Levin, Public (teleconference)
Donald Lucas, Public
Joanne Mikami, Public
Leonard Price, Public
David Spears, Industry
David Yarbrough, Industry (teleconference)
- Stakeholders: Veena Singla, National Resources Defense Council
Lindsay Stovall, American Chemistry Council
Justin Vlach, CalRecycle
- Govt. Personnel: Jon Burke, DCA Executive Office
Carrie Cathalifaud, Bureau Laboratory Supervisor
Dale Chasse, Bureau Deputy Chief
Steve Fischer, Ph.D., Bureau Laboratory Chemist
Justin Paddock, Bureau Chief
Karen Skelton, Bureau Licensing & Policy Manager
Avra Wallace-Schoell, Bureau Licensing Technician
- Presenters–CalRecycle: Krysty Emery, Sr. Environmental Scientist
Kirby Garrett, Environmental Scientist
- Teleconference: Several stakeholders intermittently listening in by phone

General Bureau Business Agenda Items

Agenda Item #1 – Welcome and Introductions

The meeting commenced shortly after 9:00am.

Chief Paddock opened the meeting and thanked all the Council Members for their attendance of the third and final council meeting of 2015. He announced there would be three council meetings scheduled in 2016.

Agenda Item #2 – Introduction of Newly Appointed Council

Mr. Paddock announced the Bureau has a brand new Advisory Council. He asked each member to introduce themselves and provide a summary of their background.

- Leonard Price has been in the appliance field since 1959. He has been an appliance repair instructor since 1973 and belongs to various state and national appliance organizations.
- Donald Lucas is a combustion scientist at the University of California, Berkeley, Lawrence Berkeley National Laboratory, studying the combustion of toxic byproducts and is involved in policy regarding flame retardants and combustion standards.
- Burt Grimes has operated a furniture manufacturing company for 34 years. He has been on the Advisory Council multiple terms.
- Sharron Bradley is the Chief Executive Officer of the North American Home Furnishings Association. She has also been on the Advisory Council for multiple terms.
- Joanne Mikami is a retired employee of the Bureau. She was an employee with the Bureau of Home Furnishings for 34 years, serving in different capacities.
- Tim Hawkins is currently employed with his family business, Valley Oak Appliance, in Elk Grove. He has also been a Council Member for multiple terms.
- Donald Erwin is the former president of the National Electronic Service Dealers Association. Mr. Erwin was a member of the Council in the past.
- David Yarbrough is one of the founders of R&D Services Inc., specializing in thermal insulation. Mr. Yarbrough is a retired professor of chemical engineering and a 30-year part-time employee of the Oak Ridge National Laboratory.
- Judy Levin is with the Center of Environmental Health. She advocates the purchase of safer furniture products by the industry.

Mr. Paddock introduced Jonathan Burke as the Executive Office liaison for the Bureau.

Agenda Item #3 – 2016 Tentative Meeting Dates

Mr. Paddock polled the Council Members for tentative future meeting dates in 2016. He proposed to have the February Advisory Council Meeting focus on outreach. He and Deputy Chief Dale Chasse plan to be involved in several events in the weeks preceding the Council Meeting and would like to hold the meeting in Southern California. He will provide a call-in number for Council Members who cannot attend the Southern California meeting.

The following is a tentative schedule for Advisory Council Meetings in 2016:

1. February 11, 2016 – Bureau of Automotive Repair office in Riverside
2. June 23, 2016
3. October 13, 2016

Agenda Item #4 – Bureau Administrative Updates

Mr. Paddock explained due to the high turnover of Bureau Chiefs, he decided there needed to be a civil servant in place that would be in charge of the Bureau's operations, in the position of a Deputy Chief. Justin announced Dale Chasse was hired as the new Deputy Chief of the Bureau.

Mr. Paddock stated he is in the process of getting fully staffed with managers again, after leaving the position of Investigations Manager vacant for approximately 8 months for budgetary savings. The interviews for the position have been completed and the new manager will be introduced at the next Council Meeting.

Mr. Paddock then went on to address the delay of the new Bureau website going live. The Department's Information Technology Office is continuing to consolidate web pages and build the new site. The new due date is scheduled for February or March of 2016. Justin offered to send test pages to Council Members who have expressed an interest in providing input prior to the launch date.

Agenda Item #5 – Licensing & Enforcement Report

Mr. Chasse referred Members to page 8 of the materials packet for the licensing and enforcement statistics. Mr. Chasse presented current licensing information on BEAR and indicated there has been very little fluctuation in the licensing numbers over the last few years. He made comparisons between 2011 and 2015. There has been a very small increase in all registration types with the exception of service contract sellers, which has shown significant gains. Mr. Chasse and Ms. Skelton concurred the Bureau had seen an increase in service contract seller registrations at a rate of approximately an additional 500 registrations a year.

Mr. Chasse then summarized licensing trends, using the same handout. Furniture Retailer licenses and Bedding Retailer licenses have decreased since 2011 but Furniture & Bedding Retailer (Combination) licenses have increased. Other than an increase in the population of Importers, there has been very little movement in the amount of overall licenses issued by the Bureau.

Mr. Chasse also provided information on investigations and enforcement. Prior to the implementation of the \$0 citation program, the number of citations issued was approximately 6 per month. The Bureau is currently issuing up to 144 citations per month. The concept behind the \$0 citation is a combination of outreach and enforcement. We are able to educate and go on record of citing the business in an effort to gain compliance. Approximately 14 percent of the monthly citations involve a monetary fine, as most businesses come into compliance as a direct result of the \$0 citation.

Mr. Hawkins asked if there are any consistencies in the complaints received by the Bureau. Mr. Chasse answered that many of the complaints are businesses receiving money or deposits and not coming back to complete the job or not coming back in a timely manner. The Bureau is working with local District Attorneys, as this seems to be a consistent problem.

Ms. Levin asked how many of the complaints received are BEAR versus BHFTI. Mr. Chasse answered that almost all of the complaints are BEAR. He receives a very small amount of complaints for BHFTI, as the jurisdiction is product standard driven versus the regulated consumer service of BEAR. Mr. Paddock stated the numbers could be different for October, as that report is not out yet.

Agenda Item #6 – Regulations Update

Ms. Skelton summarized the regulatory update matrix on page 10 of the materials packet. The regulations are complete for the Interlock Ignition Device installation and became effective October 1, 2015. The licensing fee increase for BHFTI is currently being drafted and should be complete very soon. Citation fee cap increase for BEAR is in Departmental review right now. The Bureau is exploring a way to realign the BHFTI regulations to a similar structure to the one that has been established for citation fees on the BEAR side. There were no questions regarding regulations.

Agenda Item #7 - Public Comment on Items not on the Agenda

Mr. Erwin stated he had some comments regarding parts and service literature. They seem to fall back on the service contractor who sells the contract and the manufacturer has no liability. Mr. Paddock asked Mr. Erwin to wait until this afternoon during the BEAR agenda items to talk about this issue.

Home Furnishings and Thermal Insulation Agenda Items

Agenda Item #8 – CalRecycle Briefing on Statewide Mattress Recycling Program

Mr. Paddock introduced the CalRecycle guests, Kirby Garrett and Krysty Emery.

Mr. Garrett greeted and directed the Council to page 12 of the materials packet to begin the presentation, stating they were there to provide information about the “Used Mattress Stewardship Program” and related activities of recycling mattresses in California.

Mr. Garrett introduced himself as an environmental scientist with CalRecycle and gave a brief description of CalRecycle and what their agency provides. His unit targets compliance efforts related to extended producer responsibility. He then introduced his supervisor, Krysty Emery, who is a Senior Environmental Scientist heading all compliance teams including the paint, carpeting, and mattress recycling programs.

Mr. Garrett stated that mattresses are a significant percentage of the waste produced in California. The goal of their program is to reduce the number of mattresses discarded in landfills, reduce the illegal dumping of mattresses, and improve recycling of those products. In California alone, in recent years, there are approximately 2 million mattresses available for recycling.

Typically recycling programs are funded with up-front assessments and managed by government-run recycling programs, such as the beverage container recycling, electronic waste recovery and waste tire programs currently in effect. The mattress law

is different as it promotes reusing and recycling of mattresses sold in this state using the Extended Producer Responsibility (EPR) approach. This is a stewardship-run program, funded by a recycling fee attached to the final sale of the product to the consumer. The recycling fee funds the day-to-day management of the program, enforcement, and other costs, including the payment to the recyclers and the people who collect and transport the used mattresses.

Mr. Garrett explained that the EPR program is managed by the Product Stewardship Organization, who also takes the lead role in outreach. In California, there is currently The Mattress Recycling Council (MRC). The MRC is also the product stewardship organization for two other states, Connecticut and Rhode Island. The MRC was formed by the International Sleep Products Association.

Mr. Garrett gave an overview of the Used Mattress Recovery and Recycling Act. Senate Bill 254 (Hancock, Chapter 388, Statutes of 2013) was passed and established the Mattress Stewardship Program. It was revised with cleanup legislation the following year, and resulted in an industry-led recycling program, which supports the statewide goal of at least 75 percent waste reduction by 2020. Currently the state is seeing a 50 percent reduction in mattress waste.

The goals of the program are consistent with CalRecycle's waste management hierarchy, which promotes source reduction, re-use, recycling, and disposal in landfill. Mattresses and box springs are 85 percent to 90 percent recyclable.

Ms. Emery provided a summary of the legislative requirements of each party involved. She clarified that the recycling fee assessment has been proposed at \$11.00 per unit (a unit is one mattress or one foundation; if you purchase one of each the recycling fee would be \$22.00). The fees collected are remitted to the stewardship organization to run the program. The program provides for the collection and recycling of mattresses.

Burt Grimes asked how the retailers pay the fees to CalRecycle. Ms. Emery explained the MRC is setting up a remittance process with the retailers.

Judy Levin asked why sofa beds and Prison Industry Authority mattresses are not covered under the law. Mr. Garrett was not entirely sure why sofa beds were not covered but he thought it was because they are attached to another fixture. Mr. Paddock requested clarification if it was a distinction made in statute or in regulation. Mr. Garrett answered in the plan created by the MRC, and approved by CalRecycle, sofa beds are listed as non-covered product and the law specifically excludes them. Ms. Emery stated that the Prison Industry Authority was a stakeholder in the development of the regulations.

Len Price asked if the big box stores were also required to provide removal of mattresses they sell. Ms. Emery stated the requirement is if a retailer "delivers" a mattress, then they are required to pick up the used mattress being replaced. Mr. Garrett interjected there is a caveat to the requirement if the retailer uses a "common carrier" such as Fed Ex, UPS, etc.

Don Erwin asked what will happen if a consumer did not want their old mattress to be picked up. Mr. Garrett clarified it was not mandatory that it be picked up, if the consumer

did not wish it removed, but the retailer must offer to pick up one unit for every unit they deliver at no additional charge. This portion of the statute has been in effect for about a year.

Sharron Bradley asked Mr. Garrett if a consumer had a unit delivered by a “common carrier”, are they able to contact a retailer to pick up the unit for them? Mr. Garrett answered “no”, then went over the slide on page 17 of “where to recycle.”

David Yarbrough asked if the “factory direct” mattress stores are considered the retailer when they deliver a mattress. Mr. Garrett confirmed they are considered the retailer and if they are delivering a mattress in the state of California then they will be collecting the recycle fee.

Mr. Garrett then referred to the map of California on page 17 indicating four current mattress recycling centers. The MRC is working with recyclers so there should be a total of 11 mattress recycling centers as of January 1, 2016. The MRC is also working with 149 solid waste facilities who are interested in becoming drop-off sites for mattresses.

Ms. Levin asked if there is a mileage requirement for the distance for these drop-off sites for consumers and for people picking up used mattresses. Mr. Garrett stated that in the statute and in the plan by the MRC their goal is to make it convenient for the consumer. He is not sure if there is a mileage requirement attached in the statute. Ms. Emery added these are items that will be analyzed in their annual review process.

Mr. Garrett then summarized the timeline on page 17 and contact information on page 18.

David Yarbrough asked if the manufacturer is required to ensure the retailer is registered with the MRC. Ms. Emery answered that CalRecycle will post the list so that all regulated entities will be able to review and ensure the products they are selling and the businesses they are involved with are in compliance with the law.

Ms. Bradley asked if a manufacturer is selling to a commercial organization, such as a hotel, do they charge them the \$11.00 per unit recycle fee. Ms. Emery answered since the fee is charged at the point of sale, then the fee would be charged to the commercial entity. Ms. Bradley followed up asking “would the manufacturer also be responsible for picking up the used mattresses?” Both Ms. Emery and Mr. Garrett were unsure of the answer and indicated they would follow up on the question at a later date. Mr. Garrett went on to say the statute defines a “retailer” as anyone who is making the final sale.

Donald Lucas asked how many mattresses are currently being recycled. Mr. Garrett answered of the 2 million a year that are discarded or available to recycle approximately 20 percent are being recycled now. Dr. Lucas then asked what the cost of recycling is compared to the fee that is being charged (\$11.00 per unit). Mr. Garrett answered the MRC is a non-profit organization and many of the recyclers are also non-profit.

Bill Perdue, Vice President of Regulatory Affairs at the American Home Furnishings Alliance, wanted to clarify if he sold a sleeper sofa with the mattress attached he would

not have to be registered, but if he sold a stand-alone mattress then he would be required to be registered. Both Mr. Garrett and Ms. Emery confirmed this to be correct.

Mr. Paddock thanked CalRecycle for their presentation and requested a follow-up email on some of the questions. He summarized what the email would address:

- 1) More background on why sofa beds and the Prison Industry Authority were excluded;
- 2) What obligations the manufacturer will have in providing materials to California retailers and/or distributors and;
- 3) When manufacturers are dealing with commercial entities, how that may or may not be affected by the law.

Veena Singla asked “Who in the stewardship program is responsible for the education and outreach portion of the law, what is the plan for outreach?” She also asked “What metrics would be used to determine the effectiveness of the program and how the MRC will be held accountable for improving performance of the program in order to reach the target goal”? Lastly she expressed concern about toxic chemicals in foam components in the recycling waste stream. Prior to 2007, PBDE flame retardants, which are considered a particularly hazardous type of retardant, were used in mattress foam and are currently found in the recycling stream via carpet padding.

Ms. Emery responded that the MRC has provided an education and outreach plan that has been approved by CalRecycle and it is available through the CalRecycle website and the MRC’s website. Ms. Emery stated that there are requirements in annual reports and data MRC are required to provide to CalRecycle. CalRecycle will analyze the success of the program and the compliance of the stewardship organization.

There were no further questions or comments.

Agenda Item #9 – Home Furnishing Retail Advertisement Regulations Update

Mr. Paddock provided information on the “Home Furnishing Retail Advertisement” regulation update. The statute the Bureau developed around the truth in advertising regulation is over 40 years old. To develop regulation changes the Bureau must work around some statutory provisions that were designed when the industry was very different. An example is the formulation statute for what a prevailing market price is for a retailer that requires someone to explore what the various prices are in the community for a particular product. They also have to look at transportation impacts and other stresses on retailers. Based on these and other factors, the Bureau attempted to create a formula to determine when a particular sale price was not the prevailing market price. It could not be determined when the sale price was the prevailing market price, but it could be determined when it was not. The Bureau created a simplified equation, by determining what a retailer’s overhead truly is for most of their products and based on that it was brought to the Council for comments. The response was that it was an intriguing idea, but more feedback was needed to ensure the number we are using is appropriate.

Based on those comments, the Bureau has developed a retailer survey, which will be distributed to businesses throughout the state, to approximately 200 businesses. Mr. Paddock summarized the survey on page 21 of the materials packet. Mr. Paddock then asked for comments and questions from the council.

Ms. Bradley asked how the survey would be deployed. Mr. Paddock responded that he would like to submit the survey in multiple ways. In the beginning, he would like to select retailers and have Bureau management go to those businesses to complete and submit the survey. He stated the Bureau may have to redevelop some of the questions based on the initial responses. His goal is to speak to approximately 30 different retailers in November and December. After he gets his initial responses and makes any revisions required he will turn it over to a link, such as Survey Monkey or post on the Bureau's website and at that point he will seek electronic responses. Ms. Bradley commented on the length of the survey. She warned that retailers may think the Bureau will keep the information from the survey and use it against them at a later date and she suggested if we use Survey Monkey we might need to offer an incentive due to the length. Mr. Paddock asked if there was anything extraneous that could be cut to make the survey shorter. Ms. Bradley said she would like to look at it further and run it by some of her colleagues for comment.

Donald Lucas made the comment that the survey was long hand written, which will make it difficult to analyze the data. He also wanted to know if any other retailing industries such as carpet or jewelry might have the same issues and if there was any information we could gather or share our information. Mr. Paddock explained those particular types of retailers were not regulated by the Department so there is no available information from other agencies.

No further comments from the council or public.

Agenda Item #10 – Operations Update – Ports and Importer Inspections

Mr. Chasse summarized information provided at the the last council meeting where there was a discussion regarding increasing the number of inspections and sample collections from non-retailer sources. He also explained it was not the Bureau's focus to go out to the distribution points, we focus on the retailers. The council asked if it wouldn't be easier to go directly to the source.

Mr. Chasse said he has been working on a way to increase the Bureau's efforts. He listed a few of the challenges to inspecting at the point of distribution on page 27.

Mr. Chasse has titled this initiative as Point Source Enforcement. Historically the Bureau has been completing 2 or 3 of these inspections per month and would like to increase it to 6 or 7 per month. He is going to create an inspection schedule and group the inspectors up, so they go into these locations as a team instead of individually.

Mr. Chasse asked the Council to assist with determining information on the distributors and their locations.

Mr. Chasse also indicated the Bureau is looking at the increase in online sales and how to ensure those companies are compliant.

Mr. Erwin suggested asking the companies to be part of a program that would feature a product to the public.

Mr. Paddock advised the Council that once the Bureau had the fee increases in place, it would acquire a credit card so the Bureau could purchase products from online retail websites for testing. If a product is non-compliant or has another violation, then the company will be liable for the cost of the product. Based on this process, the Bureau is hoping to keep this program cost efficient.

Mr. Paddock also indicated he plans to have a set number of visits a year to some of the major importers, but not on a set schedule. For these visits, the Bureau would send out 3 inspectors and they would stay for 2 days to complete an accurate audit. Mr. Paddock indicated right now our numbers are 80 percent retailers to 20 percent importer inspections and the Bureau would like to increase that number to 50 percent for importers by the summer of 2016.

Agenda Item #11 – 2015 Outreach to Consumers and Industry and 2016 Outreach Plan

Mr. Paddock and Mr. Chasse stated the Bureau had been exploring more ways to increase awareness of the Bureau.

In an effort to keep costs minimal, Mr. Chasse stated we are looking at using the Department of Consumer Affairs' resources, through their Public Affairs Unit, who have the equipment and staff that can produce YouTube videos. The Department's Publications Unit also designs and produces brochures where the costs are already included in the pro-rata the Bureau pays, and the Bureau is also working with the Department's Office of Information Services to revamp the website so it is more user-friendly. The Bureau has already started attending different events such as the Korean Street Fair in Los Angeles. In addition, the advertising survey mentioned earlier will be used to assist in educating businesses. The Bureau will also be sending inspectors out to swap meets to meet with the businesses that run them, to ensure they are aware of the laws and know their responsibilities along with the requirements for businesses retailing at their locations.

Mr. Chasse will be working on having an outreach plan created to present at the next Council Meeting on February 11, 2016.

Mr. Erwin suggested putting advertising in the phone directories. He also mentioned that many times when he tries to find out if a business is licensed by using our website he is unable, but the field representative he contacts is able to find it. Mr. Chasse advised him that since the website is based on exact criteria, he should send his inquiries to the 'homeproducts' email and have Bureau staff do a search.

Ms. Levin asked Mr. Chasse to speak to the linguistics issue. Mr. Chasse stated he wants to identify the most predominate languages, starting with Spanish, and start creating literature in other languages, as appropriate. Mr. Paddock interjected stating by February the YouTube video would be produced, several brochures drafted, and a dedicated Spanish language line would be available. For BEAR, the Bureau will produce brochures in Ukrainian and some of BHFTI's material in Mandarin and different

languages for the YouTube video. Mr. Chasse added the Bureau is adding bi-lingual and multi-lingual personnel.

Mr. Hawkins asked if there was a particular campaign or if the Bureau was going to generally target consumers and retailers. Mr. Chasse answered that it had not been decided yet how to brand the outreach. Mr. Paddock stated Mr. Chasse will include this part in the next scheduled Council Meeting where it will be shared.

Agenda Item #12 – Laboratory Operations Update

Mr. Paddock stated that he and some of the laboratory staff had visited the Department of Toxic Substance Control (DTSC) laboratory facility in Berkeley. In addition, the Bureau has been working since last spring updating the manuals and procedures for all of the units. Based on the information from the manual review as well as the tour of DTSC the Bureau is in the process of firming up their Quality Assurance/Quality Control (QAQC) measures. Over the past few decades, various laboratories have begun to update QAQC measures to be more stringent, and to ensure there is some independent review and calibration of the various items that may be used on a daily or weekly basis. The Bureau's procedure updates will include more regular calibration checks and internal reviews. In addition, the Bureau will seek a third party accreditation. The Bureau has already received some "soft quotes" for the costs associated with accreditation. The first year will be approximately \$15,000.00 and in future years, as long as compliance is maintained, it will be approximately \$4,000.00 or \$5,000.00 per year. As early as October 30th, there will be an invitation for bid posted on the State Department of General Services' webpage. Mr. Paddock went on to say he expected the accreditation process to continue this winter and spring, with the expectation the Bureau's laboratory will be accredited by summer 2016. There will be minimal impact to the Bureau's testing operations during this time.

There were no questions or comments.

Agenda Item #13 – Technical Bulletin 117-2013 Updates

Barrier Study Phase 2 update:

Mr. Paddock presented the Phase 2 Barrier Research Study update. Mr. Paddock introduced Dr. Lucas as a new council member and stated he provided comments on Phase 2 of the study, specifically our small scale testing. Based on his comments the Bureau is in the process of conducting some literature reviews and analyzing the procedures. Mr. Paddock stated the Bureau would like to reconvene the Phase 2 working group in the next 1 to 2 months to discuss any potential changes that should be made. Based on that meeting, the Bureau will post any updated procedures on its website and begin the small scale testing.

The next step will be to look at the procedures pertaining to large scale/validation testing. The Bureau has completed a rough draft of those procedures. Once the small scale procedures are complete, the Bureau will put the large scale procedures out to the Phase 2 group, as well as on its website, for comment.

Barrier Study Phase 3 update:

Mr. Paddock referred to page 30 of the materials packet. The Bureau has created a draft scope of work for a request for proposals. The Bureau would like to hire an economist to perform a survey and a cost/benefit analysis of what the impact would be if the furniture industry had to put a barrier in all products defined as upholstered furniture. Mr. Paddock asked for comments from the Council or public on what aspects are not currently included. Mr. Paddock noted he did not include a “waste analysis” of any kind. He also noted, due to minimal financial resources, items would probably have to be cut from the proposal.

Dr. Lucas asked how an economist would conduct the literature review of the technical aspects. Mr. Paddock responded he would have to have the person or persons performing the survey sit down with people from the industry and academic world to determine the conclusive and potential issues that should be addressed in the report. He agreed that it might be best for one person/persons to look at the literature review, and another person/persons to review the cost benefit.

Dr. Lucas suggested including other agencies or organizations that might be performing similar work regarding barriers to ensure efforts would not be duplicated.

Ms. Levin agreed the draft should include a waste analysis and also that there is no mention of evaluating hazardous materials that might be used with any potential barrier. Mr. Paddock advised that the study would include flame retardant (FR) analysis on specific barriers, but wanted to clarify if Ms Levin was speaking of the cost of disposal of those toxic materials. Ms. Levin stated she thought the study should include the cost of disposal and the effects on environment.

Dr. Lucas voiced his concern regarding the timeline of 50 days after receiving the draft for making revisions and issuing a final report. Mr. Paddock asked what a typical turnaround time might be. Dr. Lucas indicated it varies, but it’s better to give yourself more time than less.

The question was asked if someone else was going to look at the public health impacts of these barriers pertaining to consumers and fire fighters. Dr. Lucas answered it is a difficult problem to address because the different chemicals have to be identified, along with the adhesives, the method of construction, and the method of disposal.

Bill Perdue added that he agreed with Dr. Lucas, as far as the timeline, and suggested it should perhaps be 90 days. He also suggested looking at barrier manufacturers that may have conducted in-house studies. He suggested the Bureau make sure an FR analysis was performed on any type of barrier material. He is concerned that some of these materials contain type chemicals and going back to the SB 1019 and the TB117 discussion, we could be setting ourselves up for unintended consequences.

Mr. Paddock asked the Council and audience if they thought it was a more reasonable undertaking to take several assumptions and look at one or two specific articles of furniture. Mr. Perdue disagreed with this method because there are too many fabrics, foams, and components that make the variables too extensive.

Ms. Singla addressed the Council stating she agreed with both Ms. Levin's and Mr. Perdue's comments regarding taking a holistic approach to the cost and benefits. She suggested looking at some of the impacts qualitatively that might be difficult to quantify. She referred the Bureau to DTSC's regulations and programs that control new consumer products, as they have done some extensive work on how to evaluate life-cycle impacts and cost and benefits of consumer products in association with their regulations and requirements for alternative assessments. Their staff may be able to give some input on how to look at the cost and benefits quantitatively and qualitatively.

Compliance Statistics:

Ms. Cathalifaud summarized the SB 1019 labeling statistics on page 36 of the materials. Mr. Paddock noted our sample delivery to DTSC has not started yet.

Mr. Perdue asked if the Bureau laboratory had received any samples that checked the box "no chemicals contained" and failed the test. Mr. Paddock answered this was only a survey of who checked no and who checked yes.

Ms. Bradley asked how the Bureau was going to determine if a product was manufactured prior to January, 2015. Mr. Chasse responded the investigators use invoice review to make that determination.

Mr. Grimes asked about the amount of product received versus the 37 percent with the proper labeling. Ms. Cathalifaud explained that since the labeling was required as of January 1, 2015, many of the products were manufactured before that date. Importers and retailers are allowed to move through their existing inventory. The bill did not require manufacturers to put the date of manufacture on the label, so the only way to determine when the product was manufactured is through invoice review or through dates on other components of the furniture. Mr. Paddock also stated that for the first part of the year we were conducting "soft enforcement". Since the law has been effective for a while, Bureau Enforcement representatives are requesting proof of manufacture date.

Mr. Erwin asked what is stopping the overseas manufacturer from putting a date on the merchandise earlier than the effective date of the law. Mr. Paddock answered that if the Bureau determined a manufacturer was committing fraud, the Bureau would seek revocation of their license. Also, this would be a short-term problem because after two years, most furniture would be manufactured after the January 1, 2015 date, and it would have to be proven it was manufactured prior.

Ms. Cathalifaud summarized the furniture flammability statistics on page 36.

Agenda Item #14 – SB 1019 Implementation Updates

Best Practices Guidelines:

Mr. Paddock started the discussion by addressing the best practices document on page 38 of the materials packet. He gave a brief background as to why the document was created and then asked for feedback from the Council and public.

Ms. Levin had two comments. In section 1 she suggested clarifying “each specified component” to “each covered component”. She also suggested including a comment stating “the placement of the TB 117-2013 label that includes the SB 1019 wording can be seen readily by consumers when possible”. She gave the example of placing the label underneath a sofa cushion if the cushion were detached instead of underneath the sofa.

Mr. Paddock asked if the Council had any objections to including a statement “for loose cushion products the labeling will be on the decking material”. He reiterated this was a best practices document and the items would not be a requirement or a mandate from the Bureau.

Mr. Perdue commended the Bureau and the Council for creating the best practices document in an effort to assist the industry in regard to SB 1019 labeling. He then went on to address the placement of the labeling. He stated the association and the Bureau have worked together in ensuring the manufacturers would be able to work with the law label to design what is called a “billboard effect”. This gives the manufacturers the opportunity not to have multiple labels and to attach SB 1019 to a label that cannot be removed.

Mr. Perdue then went on to discuss the document itself. He stated that he was a huge proponent of creating the document and “best practices”. He then went on to address his concern for the third-party testing requirement and feels there needs to be additional discussion. Afterward, he agreed with the language regarding the Flame Retardants section.

There were no additional comments regarding the best practices guidelines.

Document Review Issues:

Mr. Paddock referred the council to page 41 in the materials packet. He started with some consistency issues he has seen in the document review. First, he emphasized how important it is for manufacturers to obtain the declaration from their supplier. If only a laboratory report is submitted without a declaration then, by law, each report must be reviewed on a case-by-case basis and a determination must be made if the lab report is sufficient. Right now the submissions received by the Bureau are about 50 percent declarations and 50 percent laboratory reports. Ultimately a declaration places the manufacturer in a safer legal standpoint.

He then went on to explain how a document review request is conducted. The Bureau sends out a form letter when they choose to do a document review because someone has checked “no”. The manufacturer has 30 days to provide the requested documents. First, the Chief looks at the laboratory’s break-down report. Based on that report, he determines how many declarations he should see. He then went on to describe the most important items that should be included in a declaration.

1. The supplier needs to sufficiently identify what that product is, so that the Bureau is reasonably certain the covered product is actually the product that the supplier speaks to in the declaration.

2. The declaration must state the product does not contain added FR's.

Mr. Paddock then produces a memorandum and returns the report back to the Bureau's Laboratory Unit so they can continue their reviews. If a sample goes to the DTSC and receives a violation then based on the fact the manufacturer already met the basis of the statute and this is their first violation then enforcement is different than if they had a violation with the document review as well.

Joann Mikami asked Ms. Cathalifaud if the laboratory was doing any fiber identification on the fabrics. Ms. Cathalifaud affirmed they were. Ms. Mikami then asked if that was one of the factors the Chief was looking at. Mr. Paddock confirmed it was.

There were no additional questions or comments regarding document review.

Inter-Agency Agreement:

The Council was referred to the agreement on page 43 of the materials packet. Mr. Paddock wanted to make sure everyone was aware of the agreement between the Bureau and DTSC.

Mr. Paddock also wanted to inform the Council of the Standard Operating Procedures (SOPs) the DTSC scheduled to have available on their website by mid-October has been delayed to December 15, 2015. The Bureau will also provide a link to those SOP's on its website. Based on this timeline, the soonest the Bureau will send samples to DTSC will be February 1, 2016, to ensure there are no issues that arise with the review of the SOP's.

One of the teleconferencers had a question that referred back to document review. He asked, as a major manufacturer they are in the process of getting declarations from their suppliers. They are assuming they may have an issue with getting declarations from approximately 10 percent of the suppliers, primarily from fabrics provided directly from consumers, referred to as COM product (customer's own material). He asked if they were absolutely unable to get the declaration, how should they proceed. Mr. Paddock answered if a manufacturer has an instance where they cannot get back to the supplier and they do not have a reasonable expectation there is a lack of FR's in the product then the manufacturer should check "yes".

There were no further questions or comments regarding the timeline or SOP's.

Agenda Item #15 – Thermal Insulation Updates

Registry Number Changes:

Dr. Steve Fischer summarized the memo provided on page 50 of the material packet that was distributed to all Thermal Insulation Manufacturers on September 25, 2015. The Bureau will no longer be issuing registry numbers to Thermal Insulation manufacturers, as there is no statutory requirement or labeling requirement to list that number in California, and California is the only state that issues a registry number.

Informal Regulatory Proposal:

Dr. Fischer then went on to discuss updating the standards for thermal insulation materials, which are the requirements used to verify selection products. The latest version should be on the website October 29th or 30th. The major changes are that the original document had specific material type and specific forms that were covered and it had an “opt-out” section the manufacturers could complete and still sell product, but not be in the Bureau directory. Now the Bureau is certifying by the form of material, since the Bureau can run similar tests if the material is in similar form. And finally, the proposal is emphasizing enforcement. Thermal Insulation now has the same enforcement criteria as Home Furnishings.

Mr. Paddock is giving stakeholders in the thermal insulation industry approximately 30 days to review the proposal. He would like to schedule 3-4 public workshops, the first being the first week of December, to discuss comments stakeholders might have regarding this proposed regulation. The Bureau is going to proceed in the first part of 2016 to discuss informal comments. By summer of 2016, the Bureau should move into the formal rulemaking phase of this regulatory package. Because it is part of the Building Code, it will take several years to come into adoption.

There were no additional comments or questions regarding the informal regulatory proposal.

Agenda item #16 – Public Comment on Home Furnishings and Thermal Insulation Items Not on the Agenda.

There were no comments.

Electronic and Appliance Repair Items

Agenda Item #17 – Service Contract Working Group Update

Ms. Skelton opened the afternoon session by discussing the Service Contract Working Group. On October 22, 2015, the Bureau held a “kick-off” meeting to bring together a working group that consisted of industry members, administrators, association retailers, manufacturers, consumer advocates, and the California Department of Insurance. This group was formed to capture a clear picture of the current market and trends in the service contract industry, the regulation in other states, and to review the relevancy and adequacy of our current regulation. In addition, there is some potential overlap with the Department of Insurance with home protection plans and portable device insurance. The Bureau wants to make sure it has a clear understanding of Department of Insurance’s regulation and that people are appropriately licensed with the correct agency. An agenda from the Working Group meeting is on page 54 of the materials packet.

As part of the workgroup discussion, the Uniform National Insurance Model Act, used in several states, should be reviewed and included as part of the report, along with what states are currently requiring of service contracts. The group worked on ideas how to reach out to ensure compliance in California or providers selling to California consumers.

There was a suggestion to complete a new survey like the one completed in the 1999 market study. And it was noted the Bureau's AB 2740 Report contained a survey with many service contract questions that will be included for the group to review along with the prior market study to see if there was enough information covered or if it warrants a new survey..

There was also a discussion concerning the Bureau's authority over the Song-Beverly Consumer Warranty Act. Why it was limited to service contracts and why the Bureau did not regulate manufacturers' parts availability. Mr. Paddock responded there would be a portion in the final report stating the issue and concern, but the purpose of this working group is specific to the service contract industry.

With the input and the assistance of this working group, the Bureau will develop a report with findings and recommendations by the end of October 2016. The Bureau plans to reconvene the working group early to mid-January 2016 and plans to have 3-4 additional meetings before the report is finalized. The group is currently looking for more consumer advocate representatives to participate. The Bureau anticipates placing a synopsis and some additional reference materials on the Bureau's website by November 15, 2015.

There were no questions or comments about the Service Contract Working Group.

Agenda Item #18 – Business URL and DBA Update

Prior to the next agenda item, Mr. Paddock asked Council Member David Spears to introduce himself.

David Spears introduced himself as a 3rd generation family business of retail sales and service of major appliances. He has been a repair technician and in the appliance business for 25 years.

Mr. Chasse gave the update for URL and business name identity theft. The Bureau does take precautions during the licensing phase to ensure business names are not duplicated, however if a name is being used on the internet, the Federal Trade Commission (FTC) has jurisdiction. Mr. Chasse will survey the other DCA boards and bureaus to see if they are having similar issues and what they do to regulate. Mr. Paddock interjected that we do want to receive complaints on the issue and we will refer them to the FTC, the California Secretary of State's Office, or the county. It will be a matter of determining, based on the complaint, which agency has jurisdiction.

Mr. Erwin suggested when he had his own business and someone tried to use his same name he complained to the office who approves DBA's (fictitious names). Mr. Chasse agreed this was a good suggestion and many of these companies become an enforcement issue because it turns out they are unlicensed. He then explained that even if someone cannot have the same name, their name might be similar to another and the Bureau cannot regulate how a business is brought up in the internet search engines.

Mr. Spears asked if someone used a name in the advertisement if that had to be regulated. Ms. Skelton responded if someone was presenting themselves as a name

then they needed to be licensed under that name or if it was already registered they would have to change the name.

Mr. Grimes asked if we have a tip line. Karen provided the Bureau's home products email address: homeproducts@dca.ca.gov.

No further comments or questions regarding URL or DBA's.

Agenda Item #19 – Regulation Proposal on License Numbers on Advertising

Mr. Paddock summarized the discussion from the last meeting. The Contractors State Licensing Board (CSLB) requires their licensees to place their license number on their advertising. The Council was interested in having that apply to BEAR Service Dealer registrations. The Bureau conducted a review of all the boards and bureaus within the DCA and besides CSLB, the Bureau of Real Estate was the only other agency requiring licensees to place their license number on their advertising. Both of them have specific statutory authority to be able to enforce this requirement. Mr. Paddock contacted the DCA Legal Office and at this time there is not a regulation the Bureau could write to require that license numbers be placed on advertisements, since the Bureau does not have specific statutory authority. Mr. Paddock stated that this issue would be noted for the next Sunset Report.

Mr. Erwin stated this was a practice years ago and asked why they removed it. Mr. Paddock responded that it was most likely because Bureau realized they did not have the statutory authority to support the regulation

Mr. Hawkins clarified that the registration number is not required on appliance and electronic dealers advertising. Mr. Paddock confirmed this was correct. He then wanted clarification if the registration number was required on their service invoices. Ms. Skelton confirmed the Bureau has legislative authority requiring the registration number to be on invoices, claim checks, and on diagnostic fees.

Mr. Erwin asked what entity Ms. Skelton is referring to when she is talking about the "regulation". Ms. Skelton explained that the Bureau drafts and adopts regulations, but authority through statute (law) was required that supports it, otherwise it is considered an underground regulation and it can be challenged.

Agenda Item #20 – Outreach to Consumers and Industry and 2016 Outreach Plan

Mr. Chasse summarized the Bureau's outreach plan that was addressed during the morning session. The Bureau's plan is to make more of an effort to reach out to the specific communities, as well as the industry through brochures and direct face-to-face meetings. The Bureau is also going to survey the need for materials to be produced in different languages. The Bureau feels there is a disconnect with different cultures, especially in the Los Angeles area. The Bureau also plans to go to different colleges and trade institutions in an effort to educate students of their legal requirements if they go into business for themselves. The Bureau will be working with the media, giving press releases or pitching stories. The Bureau will present an outreach package/plan at the next meeting in February 2016.

Mr. Erwin stated he has many connections with the local papers in the San Diego area. He offered to pass Mr. Chasse's ideas to his contacts.

Mr. Spears suggested doing email blasts a few times a year to reach a large population at virtually no cost.

Mr. Price added he agreed with representatives of the Bureau coming out and speaking to the colleges. Mr. Chasse and Mr. Paddock concurred that one of the most effective ways to gain compliance is by educating at the colleges and trade schools. They are hoping to visit Los Medranos College as an annual trip, along with a few other colleges they have identified in the state.

Agenda Item #21 – Public Comment on Electronic and Appliance Repair Items Not on the Agenda

Mr. Paddock asked if any of the members or public had any comments or questions.

Ms. Mikami asked if there is a timeline a licensee's enforcement action is removed from the website. Mr. Paddock and Ms. Skelton explained if the action was a revocation it will be on the website permanently. Mr. Chasse went on to explain citations are on the website for 2 years, giving the licensee a chance to rehabilitate.

Mr. Erwin raised a concern about manufacturers not being regulated by the Bureau. According to the Song-Beverly Consumer Warranty Act the manufacturer is required by law to provide parts and service literature for seven years after the product is manufactured, for a product over \$100.00, and three years if a product is under \$99.00. His issue is since the Bureau does not have any jurisdiction over the manufacturers, then the consumer has no other recourse than to take the manufacturer to court. His suggestion is to create legislation to require manufacturers who hold themselves out for service to be regulated by the Bureau. He also wants the Bureau to go through the Song-Beverly Act and provide items that would help the Bureau regulate the manufacturers.

Mr. Paddock addressed Mr. Erwin's issues and the Bureau's role in policy development. The Bureau's role is to enforce the laws that the Legislature has enacted. The number one goal is to make the consumer whole wherever we can. While legislation is being developed, the Bureau's role is to serve as a technical resource to decision makers..

Mr. Erwin then read the Bureau's mission statement. Based on the mission statement, he feels the Bureau should comply with his request. Mr. Paddock reiterated the Bureau's role as an advisor. He advised the Bureau would be willing to discuss the impacts of amending the act or giving a cost analysis for any changes.

Mr. Erwin asked how the Bureau has authority over portions of the Song-Beverly Act in regards to Service Contract Administrator. Mr. Paddock explained that it was through policy development, but the Bureau was not involved in active lobbying. Mr. Paddock concluded the discussion by stating the Bureau would assist in proposed legislation, as far as their scope would allow, but otherwise policy decisions were to be made by Legislators.

Mr. Spears inquired if “handy man” services were required to be licensed. Ms. Skelton advised that if they keep the work under \$500.00 then they do not require a contractor’s license; if over \$500.00 they do, however a “handy man” cannot repair consumer electronics or appliances without being registered with BEAR regardless of the size or amount of the job. Mr. Spears’ concern is with the person who advertises with a “blind ad” on Craigslist with no real advertising. Ms. Skelton agreed those were harder to bring into compliance since they do not advertise conventionally. Mr. Paddock interjected that the Bureau has done some phone “shopping” with advertisers in some of these cases and as long as they agree to do the work, they would be in violation and receive a citation. He also requested any tips be forwarded to the homeproducts email.

Mr. Spears requested there be a section on the website that advises a “handyman” is not exempt from our license, if they perform the services regulated by the Bureau.

Mr. Spears continued to discuss apartment complex maintenance employees conducting repairs. Since it is considered a commercial transaction they are not required to hold a BEAR registration, and those repairs can result in a hazardous situation. Mr. Paddock indicated he would like to talk to the Bureau’s legal counsel regarding this issue. Ms. Skelton read the definition in statute that states products “normally used for home or personal use” and advised the definition may give the Bureau some regulatory authority and agreed legal should be consulted. Mr. Paddock said he would like to discuss the matter more at the next meeting.

Mr. Perdue had a question about the SB 1019 agenda item #14. He referred to page 41 of the material packet. He asked for clarification if the Bureau was going to focus on whether or not the product contained FRs. Mr. Paddock advised that if the box was checked “yes” then the manufacturer had made proper disclosure to the consumer. If the box was checked “no” then the document review would continue and the product would be sent for product testing at DTSC

Agenda Item #22 -Adjournment

Mr. Paddock adjourned the meeting at approximately 2:00pm.