CLIMATE ACTION, RESILIENCE, AND ENVIRONMENT COMMITTEE

Council of the County of Maui

MINUTES

August 4, 2021

Online via BlueJeans Link

- **CONVENE:** 9:00 a.m.
- PRESENT: VOTING MEMBERS: Councilmember Kelly Takaya King, Chair Councilmember Shane M. Sinenci, Vice-Chair Councilmember Gabe Johnson Councilmember Alice L. Lee (out 11:23 a.m.) Councilmember Michael J. Molina Councilmember Tamara Paltin Councilmember Yuki Lei K. Sugimura (out 10:44 a.m., in 11:10 a.m.)
 - **STAFF:** David Raatz, Supervising Legislative Attorney James Forrest, Legislative Attorney Shelly Espeleta, Supervising Legislative Analyst Nicole Siegel, Legislative Analyst Wilton Leauanae, Legislative Analyst Rayna Yap, Committee Secretary Kristeena Locke, Office of Council Services Assistant Clerk

Axel Beers, Executive Assistant to Councilmember Kelly Takaya King

Lois Whitney, Executive Assistant to Councilmember Tasha Kama Ellen McKinley, Executive Assistant to Councilmember Kelly Takaya King

Davideane Sickels, Executive Assistant to Councilmember Tasha Kama

Evan Dust, Executive Assistant to Councilmember Tasha Kama

Jordan Helle, Executive Assistant to Councilmember Yuki Lei K. Sugimura

Kate Griffiths, Executive Assistant to Councilmember Gabe Johnson

- **ADMIN.:** Shayne Agawa, Deputy Director, Department of Environmental Management
 - Cecile Powell, Recycling Specialist IV, Environmental Protection & Sustainability Division, Department of Environmental Management
 - Elaine Baker, Civil Engineer IV, Solid Waste Division, Department of Environmental Management

Richelle Thomson, First Deputy Corporation Counsel, Department

of the Corporation Counsel

Keola Whittaker, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Mike Moran, Kihei Community Association (CARE-45, -53, -54) Peter Landon, Natural Area Reserve System Specialist, Department of Land and Natural Resources, State of Hawai'i (CARE-54)

- Diana Felton, State Toxicologist, Hazard Evaluation and Emergency Response Office, Department of Health, State of Hawaiʻi (CARE-54)
- Jonny Orlando, Pharmacist, Times Honokowai Pharmacy (CARE-54)
- Craig Downs, Executive Director, Haereticus Environmental Laboratory (CARE-54)

PRESS: Akaku: Maui Community Television, Inc.

CHAIR KING: ... (gavel)... Okay. Good morning. It's 9:00 a.m. Would the Climate Action, Resilience, and Environment Committee please come to order. My name is Kelly King, I'll be your Chair for this Committee. And we're extremely happy to be here today to have a robust discussion on what we should do about the harmful sunscreens to our reef. I'd like to ask everybody to silence all their cell phones and whatever other noisemaking devices you might have, and also ask anyone who is not on the Committee, not a Committee Member, to please mute your video and your microphone until testimony time. Unless you're a Non-Voting Member. Okay. So Members, we have today with us our Committee Vice-Chair, Shane Sinenci. Aloha. I'm sorry, I don't see a greeting here, and I don't see Alice. So I will leave it up to you what greeting you want to start out with.

VICE-CHAIR SINENCI: All right. Aloha, Chair, and selamat pagi, quoi de neuf.

- CHAIR KING: Good morning. Selamat, quoi de neuf. Okay. We also have with us Councilmember Gabe Johnson.
- COUNCILMEMBER JOHNSON: Good morning, Chair, and selamat, quoi de neuf. I better say that before I forget it. Looking forward to a great meeting today and good morning, it's beautiful.
- CHAIR KING: Good morning. Aloha kakahiaka and selamat. We have next our Member from Upcountry, Mike Molina.
- COUNCILMEMBER MOLINA: Aloha and selamat pagi, and quoi de neuf to you, my colleagues and everyone else tuning in this morning. Aloha.
- CHAIR KING: Okay. Aloha. All right. I'm going to go back to Alice Lee so she can tell us if we're pronouncing it correctly.

COUNCILMEMBER LEE: Okay. What did you say earlier?

CHAIR KING: I think everyone has been saying selamat pagi?

COUNCILMEMBER LEE: Oh, okay. That's Filipino?

- CHAIR KING: I don't know. We just started with our Committee Vice-Chair, so I'm not sure if that was the greeting for today.
- COUNCILMEMBER LEE: Oh, okay. Because this morning I got a phone call just as I was joining the call, so that's why I'm late. So I apologize for that. This morning I was going to put in the chat, bon matin. Bon matin and that really means good morning in French. The bonjour is more of a general greeting, like hello. So bon matin to everyone.
- CHAIR KING: Okay, great. Thank you. Yeah, bonjour means day like, you know, du jour is of the day. So matin is morning, and that's where the word matinee came from.

COUNCILMEMBER LEE: Hey, very good.

CHAIR KING: As you all know. Okay. I do remember some things from junior high school. Let's go to Councilmember Paltin, Tamara Paltin, who is actually going to be departing for France very shortly. Bon matin.

COUNCILMEMBER PALTIN: Bon matin, selamat pagi, and aloha kakahiaka kākou.

- CHAIR KING: Okay. Thank you for being here, and thank you...and last but not least, our Councilmember Sugimura. Again, congratulations for your being honored for your work with the kupuna, for the volunteering work.
- COUNCILMEMBER SUGIMURA: Thank you. I think all of that honor really goes to all of us. So thank you very much. Good morning, everybody, and selamat and bon matoon [*sic*], mateer [*sic*], whatever Alice Lee. And as Gabe and I would say, it's ohayo gozaimasu in Japan.
- CHAIR KING: Okay. I like that one too. All right. Thank you, Members. And we...of course we welcome either Councilmember Tasha Kama and/or Councilmember Rawlins-Fernandez, who are our two Non-Voting Members of this Committee. Today we have with us from the Administration Deputy Corp. Counsel Keola Whittaker. Thank you for being here, Keola. We have invited, but have not gotten a confirmation for Makale'a Ane from the Mayor's Office of Climate Action, Sustainability and Resilience. I don't know if you're there, Makale'a, but we'll check in with you later. We have with us our Deputy Director of Department of Environmental Management Shayne Agawa. Are you here, Mr. Agawa?
- MR. AGAWA: Good morning, Chair. I'm here.
- CHAIR KING: Oh, good morning. Bon matin. And we do...I do see he needs to leave by 11:45 for an appointment. We have Cecile Powell, Recycling Specialist IV from the

Environmental Protection & Sustainability Division. Are you here, Cecile?

MS. POWELL: Yes, I'm here. Thank you. Good morning.

CHAIR KING: And did your last name change?

MS. POWELL: It did. I got married.

CHAIR KING: Congratulations.

MS. POWELL: I have a newborn now.

CHAIR KING: Oh, double congratulations. So great to hear.

MS. POWELL: Thank you, Kelly.

- CHAIR KING: Okay. We also have Elaine Baker, Civil Engineer IV, Solid Waste Division, Department of Environmental Management. Are you here, Elaine? I'm checking to see who is actually here. Oh, I see your square. Anyway, good morning to you. Other resource people we have are Peter Landon from the Natural...he's a Natural Area Reserve System Specialist from the Department of Land and Natural Resources. Dr. Diana Felton, State Toxicologist, Hazard Evaluation and Emergency Response Office, Department of Health, State of Hawai'i. And we have, I think...who is going to join us a little bit later is Johnny Orlando, who is a pharmacist with Times Honokowai Pharmacy. And he's actually working right now, but he'll try to join us when we get into the conversation. Our Committee Staff with us today is Wilton Leauanae, our Legislative Analyst. Are you there, Wilton? Aloha, good morning, and bon matin.
- MR. LEAUANAE: Good morning, Chair.
- CHAIR KING: We have Nicole Siegel, our other Legislative Analyst, who has been very instrumental putting this whole meeting together with Wilton. Good morning, Nicole. And we have Committee Secretary Rayna Yap. We have our Legislative Attorney, James Forrest; and a new name for our Committee, Council Services Assistant Clerk, Kristeena Locke. So welcome to the Staff, and thank you for all your hard work in putting these CARE meetings together. So Members, today we have four items on today's agenda. We have CARE-54 on Sunscreen; we have CARE-45 Glass Recovery Program, which is a contract review; CARE-46 Central Maui Landfill Organics Processing Facility, which is another contract review; and CARE-53 Household Hazardous Waste Collection and Disposal, the third contract review. So the way I'd like to take it up today is to...we're going to have a discussion after testimony on how to move forward, if we decide to move forward with a stricter ban on sunscreens than what was enacted by the State of Hawai'i. And then after the break, I'm hoping that we can have a review of these three contracts, and then we'll have Q&A after that. So no legislative action for today, but a lot of interesting discussion. And for the public, this online meeting is being conducted in accordance with the Governor's most recent Emergency Proclamation on COVID-19, so please see the last page of the agenda for information on meeting connectivity. And then again, we ask for your patience if we

have issues with our connectivity and our technology. So let's begin with public testimony. Oral testimony via phone or teleconference will be accepted. And let me just double check and see if we do have testifiers before I go into my spiel. Okay. We have one testifier signed up at this point, and so I'm not going to read this whole thing because the testifier is Mike Moran, who probably has memorized the whole testimony spiel. And so if there's no objections I'd like to move on to oral testimony.

COUNCILMEMBERS VOICED NO OBJECTIONS

CHAIR KING: All right. Thank you. Okay. I'm just going to go ahead and call the only person I see on the list so far, which is our friend from South Maui, Mike Moran. Are you there, Mike?

... BEGIN PUBLIC TESTIMONY...

MR. MORAN: Yes. Here I am, Committee Chair King. Thank you very much for the time to testify, and I didn't realize I was going to be the only one. But you're right, you can skip the disclaimer. I always say that it's just like every time I get arrested, I tell the cops, you don't have to tell me the rights thing, I've heard that many times. So I will testify on just briefly on three items this morning, the Glass Recovery one, 45. We just think, you know, we don't recycle much, so yes. Please examine the contract and make sure everything is good on it, but let's at least try and keep recycling or whatever we're doing, packaging up and shipping off the glass. So we appreciate that. And on the Household Hazardous Waste, CARE-53, same on that one. But I also did want to mention that how that came about, that program, was several years ago at a Kihei Community Association back when we had the live meetings. The current Mayor addressed us, and one of the participants in the meeting brought up that topic and said, you know, we have all this stuff at home, and is there any way to recycle it? And he said, well, let's institute a program. So I believe that's how that program started several years ago. And many of us do participate in it, even if it's taking things that are not so bad, like the alkaline batteries, you can't recycle them any other way anymore. But...so that's a very good thing to keep ongoing. And of course, I mostly wanted to talk about 54, the Sunscreen. And I just wanted to read briefly a little segment of--and many of you may have already seen it--in yesterday's *Civil Beat*, there was an article about the State law. And just in the beginning, what I wanted to read to you, it said, in 2018, Governor David Ige signed Senate Bill 2571 into law, making Hawai'i the first place in the world to ban "the sale"..."offer of sale and distribution of sunscreens that contain the chemicals oxybenzone and octinoxate" after many studies show those two chemicals cause genetic damage to the marine life, including coral reefs, which of course is what we're doing here today too. But then it went on and said, however, since January 1st enforcement date, stores that violate the law have little to fear because the bill doesn't outline any penalties for breaking the law . . . *(inaudible)*. . . which will enforce the ban. And then just to quickly paraphrase, it went on to say, you know, is that the DLNR . . . (timer sounds). . . should be doing it and the Department of Health, but that's what they were saying is well, what are consumers supposed to do if they see it in the store and the law is being violated. And I mean it's nothing earth shattering, we always know sometimes you have a law, but how do you enforce it. So

I'm sure it's something you're already considering, but it's something to keep in mind. And one other point we also want to suggest, which we've heard from testimony at prior meetings, maybe the better approach is to not go through all the chemicals that we don't want, because they can be changed very easily by big corporations. Maybe just go the other way and say we only are going to allow the ones that contain a mineral base. So...and even that, of course, will be the same challenge, but it seems like a logical approach. So thank you very much for the opportunity to testify, and we'll be listening for good discussion today. Aloha.

- CHAIR KING: Aloha. Thank you so much, Mike. And you know, I do think we're going to hit on all those points that you mentioned. I just wanted to clarify one thing, and then Member Paltin has a question. That you mentioned when the State passed it that they said they were the first place in the world, or *Civil Beat* said that, because I'm looking at a bill that was passed in 2018 by Palau that does exactly what you said, it bans everything but the two minerals.
- MR. MORAN: Well, I think, especially for you guys that are public officials, how often do you get misquoted in the media sometimes. But that's what it said and, you know, I like *Civil Beat*, but they can make mistakes too. But that's what it did say, making Hawai'i the first place in the world to ban. So maybe it was just a little localism, trying to give us a little bit more credit, then we may be tied for first or something would've been more accurate.
- CHAIR KING: Okay.
- MR. MORAN: But it's good for everybody to be aware that if something is not accurate, let's clear it up.
- CHAIR KING: Okay. Well, thank you for that clarification. We have a question from Councilmember Paltin.
- MR. MORAN: Yes, ma'am.
- COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Moran, for your testimony today. I just was wondering, you know, my original intent was to add those penalties to the State Legislation, because as you said, there isn't any penalties. But then there was the request to also go further. And I just was wondering about your preference as passing it as one bill of penalties and one bill going further, or to do it all at once in one bill. Did you have a preference?
- MR. MORAN: I would leave that to you experts, Committee Member. Whatever you think would be the most appropriate, because you try and do it. But I mean it's...as I said, that's something that we all know all the time when you hear people say that. Well, why are you passing all those laws, you can't enforce them. But then you can go back to anything and say, well, why do we make speed limits, just let everybody drive because we can't catch every offender. So you kind of hope that most of the community is going to obey the law and try and live in a sane society. So no particular preference on that, just do the best you can, please.

COUNCILMEMBER PALTIN: Okay. Thank you.

MR. MORAN: Thank you for the question.

CHAIR KING: Thank you. We also have a question from Committee Vice-Chair Sinenci.

VICE-CHAIR SINENCI: Mahalo, Chair. No question for Mr. Moran, but it does say later in the article, so far it appears bans like those in Hawai'i are in Palau, the Florida Keys, and the Virgin Islands.

CHAIR KING: Oh, okay.

- VICE-CHAIR SINENCI: It does mention some other places in the article. Thank you.
- CHAIR KING: Okay. Great. Well, they're kind of redeeming themselves with their thoroughness then. Okay. Any other questions for our testifier? If not, thank you so much, Mike, and we know you'll be listening so we appreciate the concern and the participation.

MR. MORAN: You're welcome. Aloha.

CHAIR KING: Aloha. Okay. It looks like, Staff, we have no other testifiers. Are there any other testifiers...anybody else on the call who wishes to testify, speak now. Or you can speak later when we actually bring up the bill. Okay. If there are no objections, I will close oral testimony, and accept written testimony into the record.

COUNCILMEMBERS VOICED NO OBJECTIONS

CHAIR KING: Okay. Thank you, Members. Testimony is now closed.

... END OF PUBLIC TESTIMONY...

CARE-54: SUNSCREEN (CC 21-305)

CHAIR KING: So Members, today we have before us County Communication 21-305 from Councilmember Tamara Paltin, transmitting a proposed bill entitled, "A BILL FOR AN ORDINANCE TO PROHIBIT THE SALE OR USE OR DISTRIBUTION OF SUNSCREEN CONTAINING OXYBENZONE AND OCTINOXATE." The bill would regulate the sale, use and distribution of sunscreen containing these chemicals. Under Act 104 in 2018, Counties were temporarily preempted from enacting ordinances to prohibit the sale, use or distribution of sunscreens containing oxybenzone or octinoxate. The preemption expired January 1st, 2021. While we're not ready to take up the big bill for a vote today, I'd like to start by giving the floor to Councilmember Tamara Paltin, who submitted the proposed bill being considered, and is possibly working on revisions. And I know you addressed it a little bit with the testifier, but I just wanted to see if

there are any other comments you'd like to make, Member Paltin, before we go forward.

- COUNCILMEMBER PALTIN: Thank you, Chair. And yeah, I mean, I think it's clear what we want to do. The problem is just the legal means on how we get there. And, you know, there's...I've been speaking with a lot of researchers, and they're like, what do you think is the biggest threat to our corals reefs. And for us here with the tourist population growing steadily, I think these harmful sunscreens are the biggest threat to our reefs right now and...as well as the injection wells. It's not clear to me yet which direction we should go. I think having legislation of the sunscreens that are...the ingredients that are allowed and limiting it to that would be the easiest, but I don't know, legal wise, you know. Like I'm not a lawyer, and part of the problem I run into is that each lawyer we talked to about seems to have a different perspective. And so that makes it hard to listen to the lawyer, because...which one?
- CHAIR KING: Right. Okay. Well, thank you for those opening comments, Member Paltin. Members, we also have with us Peter Landon, Natural Area Reserve System Specialist, Department of Land and Natural Resources, State of Hawai'i; Dr. Diana Felton, State Toxicologist, Hazard Evaluation and Emergency Response Office from the Department of Health; and Johnny Orlando, who is a pharmacist. And I'd like to, if there's no objections, designate these persons as resource persons to provide comments and answer any questions Members may have relating to sunscreen and the effects on our ocean life and the reef. Are there any objections?

COUNCILMEMBERS VOICED NO OBJECTIONS.

- CHAIR KING: Great. Okay. Thank you, Members. From the Administration, we have Makale'a Ane...are you on, Makale'a? I don't see her at this point. And we also have Shayne Agawa. Thank you for being with us, Deputy Director, from the Department of Environmental Management. And Keola Whittaker, our Deputy Corporation Counsel, to provide comments and answer questions Members may have relating to the proposed legislation, as well as our legal...our OCS Legal Staff, James Forrest. So as a reminder, this item was posted for no legislative action. It is my intent today to try to get a collective agreement on how we want to move forward and if we want to move forward. There already is State Legislation that covers the sale of those two harmful chemicals, so we don't need to repeat the State Legislation because that covers the entire State. So the intent is to move forward as we were planning to do before the State passed the preemption in making a stricter ordinance for Maui County, knowing that, you know, those two chemicals may not be the only harmful chemicals. So that's how I'm hoping to move forward in this discussion. So let's go ahead and give a few minutes to Peter Landon first. Peter, are you on?
- MR. LANDON: Yes, I'm on. Let's see if I can wire up my video and everything.
- CHAIR KING: Okay. There you are.
- MR. LANDON: Yeah. So the main comments I have is we have to be really careful with your wording. I really support the language, or the bill moving forward, just stating the fact that you can only use mineral sunscreens, zinc or titanium oxide is what's available on

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the market now. But you have to be really careful by saying mineral based because there are sunscreens already made by Banana Boat that say, you know, weird things like mineral enhanced. They use the word mineral, but when you look on the label, there's also the benzine derivatives. So as you guys might know, there's, you know, six of these chemicals, maybe more...one, two, three, four, five, six, seven...I've got seven on the outreach card that I use. But there...you know, these names are patented chemical names, so they can change really easily, and that's where the State really fell short with their ban. So being able to use your bill to basically say that you can only use the mineral sunscreen zinc and titanium I think is the best way forward. And then the other points I wanted to add that I did in my testimony last time is it's not only corals we're talking about, you know, fish in their larval stages and juvenile stages can take a really bad hit from these benzines. You know, it's not healthy for humans as well. You know, people might...the major push back we've had is from some dermatologist and then other people that may have, you know, sensitive skin or experience things like melanoma, stuff like that. And the big lie here is that the sunscreen chemicals are protecting you from sun exposure. And they're not, because the filtering of the different light spectrums is happening in your skin cells. So you're still absorbing all this cancer causing sun radiation as if you didn't have anything on, whereas, the zinc and the titanium act as a sunblock, right. It's like you put something on your skin that physically blocks the sun's rays. And that's really the most healthy alternative for people. If you're going to use a spray or a cream, you know, the best thing you can do is actually use a rash guard or a hat or whatever you can to cover yourself up. So those are the main things that I would eliminate. And then also, not only the use, possession and sale...I mean the use and sale, I would add possession to the list because a lot of people are going to bring this stuff from the mainland. And then, you know, enforcement is always one of those things like, you know, there's options. They don't always have to just, you know, you throw the book at everybody. So the ability to confiscate the stuff through a forfeiture rule is another suggestion of mine, and that's something that we're putting forward in our rule package for the Natural Area Reserve down here. So all of those things, I think, would combine to make a strong law. And then there's just a few other nuances, right. A truly safe sunscreen, or sunblock is the better term, is that it's mineral based or mineral only. It's non-nano, because nano particles of metals can be absorbed by the human body and by other marine life, as well as corals. And then we all know that metal build up in any living organism is toxic. And then you do want it to be pharmaceutical grade, meaning that the metals are pure, so that you're not getting zinc that's also carrying other toxic metals like, you know, arsenic, cadmium, all these kinds of things that come out of the earth when you're mining for one metal. So those are the three kind of points to really hit on. And then how you craft your ...

- CHAIR KING: Can you just explain a little bit more for the Committee about the nano versus non-nano . . .(*inaudible*). . .
- MR. LANDON: Yeah. Nano particle is really...it means it's super small, right. So if it's nano size zinc or titanium, it's not going to do its job in a sunscreen...sunblock, excuse me, because the particle size is small enough that it could just absorb straight into your blood stream, and that's true with the marine life as well. So we have to be really careful. I'm sure there...I think you said there was one research person that was like

a toxicologist or a pharmacist or something, they probably can talk about that in more detail than me. But the basic idea is that a nano size particle can be absorbed into your body and the blood stream much more easier than a non-nano size. And if you look at your zinc and titanium sunscreens, a lot of them will say non-nano zinc on the label, so you can see that.

- CHAIR KING: Okay. So that's the desired...and then could you just speak real quickly about what's happening at 'Ahihi-Kina'u with the new rules that you're proposing...what, you know, your intention for the forfeiture portion of that...those rules?
- MR. LANDON: Right. So just like you all, you know, that we realize the State ban isn't working for various reasons. So we...you know, Maui Nui Marine Resource Council is the one that hosted the discussion, but lawmakers are really saying like the best thing we can do at this point is pursue local bans, so we're doing that. Using the language that I spoke about, we want to have our rule states... I think I forwarded it to Councilmember King. We're saying that mineral sunscreens, zinc or titanium oxide only. And then we're adding to the rule package a forfeiture rule that's often used in wildlife law in, you know, rules dealing with poaching and stuff like that. It basically says that anything that you use to commit a violation of the chapter can be forfeited. And then the...it cites the HRSs and stuff that allow law enforcement to do that. And I do believe that the departmental employees or staff are also able to confiscate these things underneath our Natural Area Reserve Rules, which is where the forfeiture rule would be added. Because we also...we have the ability to have enforcement powers in our HARs. We don't currently carry ticket books or anything like that because of the...you know, there's the contentional...you know, contentious nature of doing things like that. But in the case of like parking and sunscreen and things like that where it's real minor activities, we are scoping the ability for us to do that, or to have that permission from our administrator.
- CHAIR KING: Okay. Great. Members, any questions for Mr. Landon at this point? Councilmember Sugimura, followed by Councilmember...or Committee Vice-Chair Sinenci.
- COUNCILMEMBER SUGIMURA: Thank you. Nice seeing you, Peter. You continue to do good work. Tamara and I visited him, and he implemented the parking system and whatever at the Natural Area Reserve, so thank you. What you're talking about today then, are you proposing to do any kind of State Legislation to help support what you're doing for the 'Ahihi Nui?
- MR. LANDON: Well, it died in this last legislative session. They didn't move the bill forward. It was going to ban the avobenzone and octocrylene. So they were just going to, you know, add two more chemicals to the two chemical list of oxybenzone and octinoxate. But that bill, they let it die. So yeah, of course we'll continue to work on that, but I think the better strategy, like I said, is to just say that we're only going to allow mineral sunblock, zinc or titanium, to supplement, you know what I mean, other sun protection, like shirts. But yeah, we have been, and it's unfortunate that it didn't go anywhere. But it may be for the reason that we're talking about, like the list could just keep growing and then, you know, every legislative session you're going to be putting

another bill forward, and then giving a year or so to implement the ban. And that's when they have the time to just work around it. So I think we have to approach it . . . *(inaudible)*. . .

- COUNCILMEMBER SUGIMURA: So did the legislature create...sometimes they create a task force or a group so that they can report back to you...I mean, report back to the Legislature. Did they do that as part of their...
- MR. LANDON: I'm not...yeah, I'm not sure that happened. I mean, I don't know that it didn't, but then...yeah, I didn't hear about that.
- COUNCILMEMBER SUGIMURA: Okay. Thank you.
- CHAIR KING: And then...thank you, Member Sugimura. And just to let you and the Committee know that we did get a call...my office got a call from Senator Mike Gabbard, who was one of the authors of the State bill, encouraging us to go ahead with stricter laws for the County. Because, you know, it's much easier to address the body of nine policymakers than 75 that they have in the Legislature. So they were not able to get the things done that Senator Gabbard wanted to try to get done, and he was very encouraging. In fact, he was the one that stated that the intent of Act 104 wasn't to preempt Counties from regulating sunscreen sales in general. So he doesn't see a State prohibition of County sunscreen ordinances regarding other chemicals. Anyway, he's been extremely supportive, and that's in the record as written testimony. So moving on, Committee Vice-Chair Sinenci, you have a question for Mr. Landon?
- VICE-CHAIR SINENCI: Yeah. Just a follow up. Mahalo, Chair, and aloha, Mr. Landon. You mentioned in Bill 4, which didn't pass, you guys tried to get avobenzone and octocrylene on there. The *Civil Beat* article also mentions homosalate and octisalate as other chemicals that are also being used. So...I mean in that regard then, you guys just want to keep it...don't have any of the chemicals listed, just the titanium...those two.
- MR. LANDON: Yeah. Our rule is actually reading that, you know, no chemical or...yeah, no sunscreens with the, you know, active ingredients that are chemical compounds, only mineral sun blocks are going to be allowed. So yeah, that kind of will hopefully take care of that list because there are a couple other ones. There's the avobenzone and azobenzene are two different ones, and then there's this super malfoethil hexil methoxycinnamate. You know, the list could just keep growing because like I said, these are hydrocarbons. You know, if you experience organic chemistry they can be, you know, really big on the screen, and they just go like this and flop a couple around and then they're like oh, yeah, here's a new name. And so it's still basically the same thing, which is...it's benzene is what is bad. So these are all benzene derivatives.

VICE-CHAIR SINENCI: Okay. Thank you. Thank you, Chair.

CHAIR KING: Thank you, Committee Vice-Chair. We have another question from Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Good morning, Mr. Landon. You

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know, you touched upon the enforcement aspect of this. You know, I'm not a regular beachgoer, and I can't tell what is the sunscreen that has, you know, these bad chemicals and whatnot. So how do...I mean, I know the total answer is to just totally ban this stuff from the store for retail. But if...you know, how do you spot someone that's using this, you know, sunscreen that has all these illegal chemicals. I mean, do you confront them, or do you call the police or the County park rangers? I mean how would that work?

- MR. LANDON: So for the most part, I don't see the oxybenzone and the octonoxate, the ones that are actually banned. They've kind of disappeared from the shelves. But it's really easy to spot because if it goes on clear, you can almost guarantee that it's the chemical sunscreen. Like I said before, the minerals work by actually blocking the sun, so that's the real white crazy clumpy one that people put on that you can still see it, you can't really rub it in. And then, you know, you put it on your body, and a couple days later, like you go sweat and like the white is still coming out. So that's kind of how you can identify the two. There's also the smell. Like everybody knows that classic sunscreen smell, and that's the chemical stuff. The zinc and titanium ones are kind of like your bar of Ivory soap, they have like a real kind of...you know, they don't have that stinging in the nose or any kind of a sweet smell associated with it, right. They're not using alcohol in the mixture as a way to spread it around, right. So it's got more of a subdued kind of flavor to it. So...but the real telltale is the chemical ones go on clear, and that's why everybody likes it, right. Because they put it on, nobody knows you're wearing it, you know what I mean. If you rub that white stuff on you, guys can see you all the way down the beach.
- COUNCILMEMBER MOLINA: Okay. Yeah, I see some...you know, like some skin care companies like the Neutrogenas, I guess the...you know, they have...I guess they sell those, I guess, for skin care and for sunscreen so...but they market it as organic and whatnot, or non...you know...you know, these so-called chemicals that are...you know, we're talking about today. So I was kind of looking at that in the drug store the other day, and I thought hmm, I wonder if this...how this would fly, you know, with the proposal we have today. But...
- MR. LANDON: Yeah, and that's why we give out these cards because...you know what I mean. Brands like Neutrogena, Aveeno, you know, some of these are more trusted brands because like you said, they're made from...they're skin care companies to begin with, right. And they put some of these things in their makeup products and things like that, and so that's why it's really, really tough to fight this. And so that's why when I see people in my reserve using sunscreens that I suspect are of the nature of chemical that are not good for us, you know, I just approach them, and I say, you know, hey, we're trying to get the message out about sunscreens, I just wanted to let you know, you know, if you can check your labels and things like that, you know. Real, you know, real friendly. And for the most part, people are blown away when they hear about this stuff, you know. They think...like you, they think they were safe because they didn't buy the one that said that had oxybenzone or octinoxate. And that brings up another good point is that, you know, a lot of companies will put reef safe on stuff that's not because they don't have the two chemicals that were banned. So, you know, it's really...people really have to culture and carry their message so that you don't use some

of these buzz words that the sunscreen companies are using to market their stuff. So, you know, I put in my comments earlier, we got to drop reef safe and things like that. You got to be careful with mineral base, because it might be mineral base, but then they slip a couple chemicals in there, and the unsuspecting consumer doesn't really read the label, they think they're in Hawai'i --

COUNCILMEMBER MOLINA: Yeah.

- MR. LANDON: -- they shouldn't be buying the bad stuff anyway. And so all that stuff shows up at the beach. And one more point I want to make while I still have time is, you know, all of this stuff is still harmful, even when they're not using it at the beach, right. It's just like pharmaceuticals, you know. You take them at home, you use the restroom, and these things end up in storm water, in our wastewater and things like that. They all end up in the ocean, right. Like this stuff doesn't just go away. So even...I got a lot of people that tell me, well, I'm not going in the water, you know, but they're right there, like a hundred feet from the water, just spraying this stuff all over the place, right, and that's still bad. So that, you know...
- COUNCILMEMBER MOLINA: Okay, great. Well, thank you for...thanks for educating me on this. And, you know, like these companies, they do deceptive advertising, yeah...so...
- MR. LANDON: Definitely.

COUNCILMEMBER MOLINA: Yeah. Okay. Well, thanks, Peter. Thank you, Madam Chair.

- CHAIR KING: Okay. Thank you, Councilmember Molina. We have a question from Councilmember Paltin...question or comment.
- COUNCILMEMBER PALTIN: Yeah. Thank you, Chair. Thank you, Mr. Landon. I just was wondering, you know, when you brought up about the skin care products. Do you think that we should put on there not just sunscreen, but skin care products? Because, you know, there are like cosmetics and things that do contain like a sunscreen aspect to it, but I don't know if it would be classified as sunscreen. Like it could be like a woman's moisturizer or hydrator...or men's, I don't know. But it may have those bad...or the negative chemicals, and folks are using it. And they're like well, it's not sunscreen, it's my daily moisturizer or something like that.
- MR. LANDON: I mean, I think you could probably do some research and verify, but I don't think that that...that the percentage of those types of things in the market is anywhere near what sunscreen is out there and...you know what I mean. It's just like you said, you know, if you go to the beach, 99.9 percent of guys are just rubbing, you know, chemical sunscreen all over their body. But there might be a few women out there who have, you know, a makeup product or something, or somebody with a...you know, some sort of lip balm or, you know, lipstick with an SPF in it. And I don't really think that those are at such a high level that you would want to include that in your sunscreen bill, just because I think it'll just get more confusing. There might be sects of people that want to push back on that. But everybody knows, you know what I mean, the amount of sunscreen that's being used daily in Hawai'i is, you know what I mean, the

proportion is just huge. But yeah, I hear you. I know that those things are out there, and I know that they contain some of these chemicals, but I just don't think that they're prevalent enough to...you know what I mean, to worry about it in your sunscreen bill. That would be my opinion.

- COUNCILMEMBER PALTIN: Okay. And you don't see it becoming a loophole, like Banana Boat just shifting course and saying like, moisturizer.
- MR. LANDON: That could very well happen. There...I mean, these guys, you know what I mean, like they are smart. And so I would agree that that is a possibility. You know, it might be that you can cover it somehow...you know, you could say sunscreen or skin care products, you know, green gel or spray. You might be able to add the words skin care product and be safe, I think. I don't know. Let the lawyer probably advise you better.

COUNCILMEMBER PALTIN: Okay. Thank you. Thank you so much.

- CHAIR KING: Thank you, Member Paltin. And maybe one of the things that we could add pretty easily is sunscreen and/or tanning lotion so that they can't just say, oh, that's not a sunscreen, that's for tanning...you know, that's used in the same way. Okay. Thank you so much. If there are no other questions, I really want to thank Peter Landon. I actually ran into him at a mutual friend's birthday party the night before we had the previous meeting, had this big long conversation, and I realized that they were doing things out at 'Ahihi-Kina'u that are relevant to what we're trying to do here. And so I appreciate your support for this issue, and I think that's the direction that it looks like, from talking to State Legislators, we have to go is on the County level, because it's really difficult when the lobbyists get to the State Legislature. They spread their influence far and wide. And thank you for working on this issue too, out at our precious 'Ahihi-Kina'u, because that area, you know, we...that's one of the most precious places I think in South Maui to protect. Okay. So moving on, I did want to mention too that next we have Dr. Felton, our toxicologist. So if you have any specific questions about, you know, the toxic nature of some of these, some of these chemicals, this would be the person. So Dr. Felton, would you like to impart some of your wisdom to our Committee for a few minutes here, and then take questions.
- MS. FELTON: Hi, Chair King. Yes, thanks for having me. I'm having some trouble with my video. I apologize.
- CHAIR KING: If you can do it, maybe if you take...I don't know what your background in real life is like, but maybe if you take the virtual background off we'll be able to see you, because you keep kind of fading into your virtual background.
- MS. FELTON: Sure. Let me see if I can fix that. Just one moment. So no virtual background. Okay, let's see. I apologize for my not so clean house here.

CHAIR KING: That's okay. We understand.

MS. FELTON: Okay. There we go. Hi, nice to meet everyone. Just a quick introduction for

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you. My name is Diana Felton. I'm a physician, and I specialize in medical toxicology and environmental health. I work in the Hazard Evaluation and Emergency Response Office of the Department of Health, which is in the Environmental Health Administration. So I have sort of a unique place at the intersection between Environmental Health and Human Health. And I think...you know, I think that's something really important to mention in this topic. I really agree with a lot of the comments that Peter Landon mentioned, but I do want to emphasize just a couple of That, you know, we know that sunscreen prevents skin cancer, and the things. prevention of skin cancer is very important as is, you know, the protection of our coral reefs and the environment. And I think what's tricky about this topic is really trying to get that balance correct. And it's a tricky balance. And, you know, we don't want to prioritize human health over environmental health, but figuring out what affects these kinds of bans or restrictions may have on either aspect is I think where the crux of this issue. And it's not easy, and I don't know that there's an exact answer out there. I do strongly advocate for an emphasis on data driven policy, that's the scientist in me. And my understanding of the data--and I'll add a caveat to this in a little bit--but my understanding of the data is that there is very good laboratory data that octinoxate and oxybenzone harms coral reefs and, you know, the ocean environment. Now, that data has not been reproduced in a real life scenario, and was attempted. They attempted to reproduce the evidence of coral destruction in Hanauma Bay and in the Virgin Islands, and were unable to see that in a real life scenario. That doesn't mean it doesn't harm the coral, and I think the laboratory data is sufficient enough that we should not be using these chemicals and that these sunscreens should be banned. But, you know, the data that the other chemicals that we were talking about harm coral reefs is less dramatic. It doesn't...and again, it's early stages, we don't have a lot of data, but the other chemicals that have been discussed, such as homosalate, octocrylene, avobenzone...there are some evidence that they may be harmful, but it is not as robust as the evidence for octinoxate and oxybenzone. In addition, there have been one or two studies that have shown that zinc oxide is detrimental to corals. So zinc oxide being the primary mineral based one. So, you know, all that says is that this is still a tricky and really evolving issue. And I think when you think about balancing the human health aspect in the...you know, the cancer prevention aspect, it really becomes a delicate dance. And the struggle that I see is that the...you know, there are some portion of people that can't tolerate the mineral sunscreens, whether it's from hypersensitivity, like allergic type responses, or they don't like them and...you know, what are we talking about as far as skin cancer risk if those people suddenly don't have access to any kind of sunscreen, when the balance of some of those other chemical constituents may not be as bad as the oxybenzone and octinoxate. But again, figuring out that exact difference, I think, is really challenging. So I can understand the pull or the drive to completely eliminate chemical sunscreens all together, but I just worry that that may not be striking the exact balance between the skin cancer prevention component. I think keys to this are, you know, more public outreach and education. I think we get the consumers to change their practices. And really, as Peter Landon was saying, you know, the covering up, the rash guards, the hats, that sort of thing is, of course, is way better than...you know, I would rather we don't put any chemicals into the ocean at all. So that's sort of one aspect to consider. On that topic, which I think is really interesting, is that the National Academies of Sciences in Engineering and Medicine have convened a work group on this topic with a large group of experts,

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and they're having frequent meetings with presentations. And the whole goal of this work group from the National Academies is to assess both the environmental impact of currently marketed sunscreens, and also the potential human health or skin cancer impact. So they're really trying to answer this question from a data driven perspective. Unfortunately, their report is not due to come out until next year, 2022. But they do have regular meetings and regular updates, so I do feel good that there's at least a place where the data is being collated, analyzed, and hopefully we'll actually get an answer of how much impact from each of these chemicals. In addition to that is something...you know, to reiterate what Peter Landon said is that, you know, the chemical companies are creative, and they will change constituents, and they will adjust things. So that again sort of leans towards the idea of let's do a more broad spectrum component. So it's really challenging, and I think at this point, the Department of Health's stance is in support of limiting chemical sunscreens, but would not support a full ban on all the chemical sunscreen ingredients at this point from...mostly because the data does not suggest that some of these others are as harmful as the main ones that are banned. Couple other details, the State ban does not, you know, define sunscreen as a product that's for topical use to prevent sunscreen...sunburn, but clearly excludes cosmetics for the face. So that's just to sort of add to that further discussion. The State ban does not include cosmetic products that are applied to the face. Let's see, I had a couple other topics. That's sort of the main thing, you know, more data is useful and could help further define, but I understand that, you know, changing policy based on emerging data, you know, takes a long time. So I'm happy to answer any questions about that if I can further clarify some of that information or any other questions.

- CHAIR KING: Okay. Thank you, Dr. Felton. I guess first of all, were you able to look at any of the data used by the Nation of Palau when they did their sunscreen ban? Because they have a ban that only allows the minerals, the titanium oxide and zinc oxide. And I'm just going to read to you from their bill that they passed. Sunscreen chemicals including oxybenzone, octinoxate and octocrylene have already been scientifically documented. These chemicals, which have found...been found in laboratory research to harm the development of coral, fish, and invertebrates, can be heavily concentrated in swimming, snorkeling, and diving areas popular with international visitors. So they are using, you know, qualified and quantified data. And I wondered if you looked at their...any of the data that they've been using. Because they actually do a screen of...at the airport and confiscate any sunscreens that are not the two minerals, you know, the zinc oxide and the titanium oxide.
- MS. FELTON: That is excellent. Yeah, and they use very similar data that we use mostly by...that our, you know, that the 2018 Bill is based off mostly by Craig Downs, and they did find increased levels...they have found increased levels in highly concentrated areas, but they have been unable to correlate that with real world increased destruction of corals. And again, I think that these chemicals are harmful to the corals, but it is a...you know, it's a balance or what are...it's a risk benefit balance of what are the risks here, what are the risks here, and how do we balance those. But I think that they used a lot of the same data, and there's actually been quite a bit more evidence that's come out since 2018 when Palau and Hawai'i passed...both passed the bills about this. So I think the evidence is growing that these are harmful to the, you know, coral reefs and

the environment and that...you know, and I think it's wonderful that Palau is able to even confiscate. Because I do think that is one of the problems we have here in Hawai'i is how do we keep people from bringing...you know, even if we stop selling it, how do we keep people from bringing it. And that's where the addition of the use in your Maui bill, I think, is wonderful. I don't know, I think it was brought up by Mr. Molina earlier is, how do you know when people are using these. And particularly if they're using it in their bathroom or in their hotel room and then going out to the beach, how do you...you know, how do you police the use of it I think is really tricky. But, you know, getting rid of these from the shelves in Hawai'i I think is the first step, but it doesn't completely eliminate the exposure of the reefs to these chemicals.

- CHAIR KING: Yeah, you're right about that. But it starts the education piece too, and allows us to put the signage up at the...you know, it's like you don't have police walking along the beach pulling cigarettes out of people's mouths because it's illegal to smoke on our beaches. But, you know, we made the law because it's...you know, smoking is bad and, you know, it's maybe kind of rely on people like me who will actually walk up to tourists on the beach and say, hey, it's illegal to smoke on the beach, you know.
- MS. FELTON: Yeah.
- CHAIR KING: So a lot of our stuff in Maui is complaint driven...a lot of our...you know, our illegal short-term rentals and all that. So my last question...
- MS. FELTON: And I think that's where we're...oh, go ahead. I was going to say I think that's where the Department of Health is sort of leaning towards more public education, more outreach to the sellers. I don't like to use the expression because it sounds so terrible, but the public shaming of the sellers of these chemicals, you know. If we can get a groundswell of public support against using a lot of these and really help educate people, I think that's going to probably be the most effective, based on the sort of legal baseline that we have at this point. So that's sort of our goal going forward from the Department of Health at this point.
- CHAIR KING: Okay. Thank you for that. And then you mentioned that, you know, the face products are exempted. So does that mean if you have a sunscreen that's got these chemicals and you're also using it on your face that the whole sunscreen container is exempted? I mean, how does that work with using...I understanding about using face products, and I think at the rate and the expense and cost of most face products that I know of that very few people would buy enough of it to spread all over their bodies because it's a lot more expensive than a tube of sunscreen. But if you took a tube of sunscreen and you said, hey, this is my face cream, does that exempt you from that...you know, that State law?
- MS. FELTON: No, it doesn't. And I've been trying to get the FDA folks to clarify this a little bit, but I think there is a clear legal definition of difference between a cosmetic that's designed for use on the face and a sunscreen. And even if you use a sunscreen on your face, that doesn't make it a cosmetic, and therefore not exempt in this.

CHAIR KING: Okay.

- MS. FELTON: Yeah, it's something about a definition of a cosmetic product. And my other understanding is that a lot of cosmetics have sunscreen chemicals, or sometimes even mineral sunscreens in them, but they're at lower percentages than the sunscreen itself. So they're not...they may be effective somewhat, but they're not going to be as much of the chemical.
- CHAIR KING: Okay.
- MS. FELTON: So I think there's a formulation difference that separates those two things. But just because you use a sunscreen on your face does not exempt it.
- CHAIR KING: Okay. That's good information, and that's what we heard from Mr. Landon as well. So Members, any questions for Dr. Felton? Member Molina, followed by Member Sugimura.
- COUNCILMEMBER MOLINA: Thank you, Madam Chair. Good morning, Dr. Felton. You know, the hitting on the point of the education processes is so critical. Any thoughts of like maybe at the beach is like, you know, when you're coming in from the airport, for example, they have those amnesty bins where you're bringing in something illegal. I mean, any thought...has there been any discussion about that, maybe putting bins at a very popular beach spot and so tourists who have these sunscreens that have these chemicals, they can just, you know, toss it away. Or maybe even doing business promotions like a restaurant say, hey, you get ten percent off your next bill if you turn in your sunscreen or, you know, or clothing store, you know, places that cater to tourists. Has there any been discussion along those lines that you've heard about?
- MS. FELTON: I think there has. Yeah, there have been a few movements. There has been a bill in the Legislature the past couple of years to fund a pilot project where they pick out a couple of popular beaches, or very busy beaches statewide, and have sort of educational stands and actually free sunscreen dispensers. So I think, you know, it was going to be Waikiki and Hanauma Bay, and I believe there was a beach on Maui as well that was identified as one of the spots. And the bill has gotten through fairly far each year, and then failed. I think COVID blocked, you know, everything in 2020. And then there was some concerns last year about a group...you know, a public dispenser that everyone touches, and sort of the COVID risks. So I think that would be a great place to start is if, you know, the State could actually provide some sunscreen and some education. But I know smaller groups have been doing it on a smaller level. So the Friends of Hanauma Bay have a sort of outreach station in Hanauma Bay, and they partner with some different sunscreen companies to provide little packets of, you know, reef safe sunscreen, but sunscreen with just mineral sunscreen without any of the chemical products. The Waikiki Aquarium has a similar sort of educational area and a dispenser. Some hotels have been providing little packets of sunscreen...mineral sunscreens and some educational materials. So I do think that is the way to go. I would love to see the airlines have it as part of their, you know, welcome to Hawai'i video that they play, you know, and talk about sunscreen. The hotels...I think those are all really, you know, valid and useful areas where we could start getting the word out, yeah.

- COUNCILMEMBER MOLINA: Okay. Yeah, thank you. Thank you very much for that, Doctor. I appreciate it. Thank you, Madam Chair.
- CHAIR KING: Thank you, Member Molina. And hopefully maybe we could use some of kind of exchange like that as a way to support our local businesses that are making the truly reef safe sunscreens, and I think Member Paltin has an example of that. I think Member Sugimura, did you have a question?
- COUNCILMEMBER SUGIMURA: Yeah, thank you. So Dr. Felton, very interesting. I'm glad to see and hear your discussion about trying to balance the medical side and the environmental side because that must be both important. On the National Academy Task Force, so are you on it, or is there a representation from Hawai'i?
- MS. FELTON: There is not. I was just looking at the make up of the folks on it today because they actually have another of their informational gathering meetings tomorrow with a lot of presentations from experts and stuff. But as far as I can tell, there are no Hawai'i representatives on it that I'm aware of.

COUNCILMEMBER SUGIMURA: Wow.

MS. FELTON: But they are...what is good is they do have a lot of...what's the word I'm looking for...it's all public meetings, and they do all...they're really...they have set it up to have, you know, public input throughout the process. So I think there's the opportunity to sort of contribute, especially around the specific topics. Definitely...I have only been able to attend one of their meetings, they're always on east coast time, so that always gets tricky. But I'm looking forward to the meeting tomorrow where there's going to be a lot of presentations about some of the research that's been going on in the space, which is, I think, you know, really driving a lot of the decision making and such.

COUNCILMEMBER SUGIMURA: Okay. Thank you. Thank you very, very much. Okay.

CHAIR KING: Thank you, Member Sugimura. We have a question next from Member Paltin.

- COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. Felton, for your information. I just was...you know, when you mentioned Dr. Downs and his research, I've met him back when I was working at the beach, and he gave me some sunscreen products to try...he actually has roots in Kapalua. But I was wondering, you know, in terms of when you mentioned him, my understanding is he's the world's foremost independent toxicologist, and it was him that mentioned that, you know, just changing those one little ingredients doesn't stop it from that detrimental effect to the corals. And I was wondering like where your research is in relation to his, as he's the one whose research broke through on the harmful effects on corals.
- MS. FELTON: Absolutely. Yeah, he is considered sort of the research expert. Some of his work is not peer reviewed, which is concerning to me, but doesn't mean it's not...you know, not factual, it's just going through a little bit of a different process. He may have some work that shows that the additional chemicals are harmful. I've read his papers,

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and some of them do show some evidence; but to me, the evidence of harm is very clear for oxybenzone and octinoxate, and less so for the others, from what I've read and he may have additional work that he's done and not published or other things, but that's sort of...from reviewing the research, that is my assessment. Again, it doesn't mean that the other chemicals are not harmful, it's just at this point, the evidence is less robust for those. But that's one of the reasons why I think that the National Academies' report will be so interesting because they are looking at all of the possible research in every...you know, all of the things. So, you know, having a specialized research group to analyze all of the data and put it all together to make recommendations is I think what's really useful, especially in this when there's a lot of conflicting data, you know. Other people have done research that has...like I said, there's been some groups that have done research showing that zinc oxide is harmful to the corals, and that's very different from other people doing very similar research haven't found, you know, impacts from zinc or titanium on the coral. So the overwhelming body of evidence points towards harm from the chemical sunscreen constituents, but primarily...but more so from the oxybenzone and the octinoxate than the other ones. But again, I think the jury is still definitely out on those.

- COUNCILMEMBER PALTIN: And I guess, you know, one thing that he emphasized to me when we used to talk story at Flemings was the independence of the toxicologists. Like, you know, a lot of them are hired by the chemical companies, whereas, you know, he's independent, nobody else pays his salary for any kind of outcome. And I just was wondering if you knew anything about that, like you know, whether studies list who their employers are, and if they have those connections to the chemical companies.
- MS. FELTON: Absolutely. I think that's a really great point. Actually that was further down on my list to mention is, I think that's really important in assessing all of this. And the Personal Care Products Council is very, very powerful. And, you know, I see it at the State Legislature every year, they always have, you know, a lot of power and influence, and it is very important to assess that. And in scientific...published scientific peer reviewed research, any conflicts of interest are required to be listed, so I think it's very important. This happens in science in general, but environmental health in particular, there's always industry influence, and it's really important to keep that in...you know, in...

CHAIR KING: Perspective.

MS. FELTON: Perspective. Exactly. And to make sure you assess that as you look at the research, as you look at the recommendations. And I...you know, I look through the National Academies' list and I don't see a lot of heavy, you know, chemical company influence in their experts that they've chosen, but it's always something to be worried about. Absolutely.

COUNCILMEMBER PALTIN: Okay. Thank you. Thank you, Chair.

CHAIR KING: Okay. Thank you, Dr. Felton. If...oh, do you have another burning question, Member Sugimura?

- COUNCILMEMBER SUGIMURA: Yeah. So Dr. Felton, can you give us a full name of the National Academy Task Force?
- MS. FELTON: Sure, and I can actually put the link in the chat if that would help.

COUNCILMEMBER SUGIMURA: Oh, good. Yes, that would be helpful.

- MS. FELTON: Yeah. It's the National Academies of Sciences, Engineering and Medicine, and it's the Committee on Environmental Impact of Currently Marketed Sunscreens and Potential Human Impacts of Changes in Sunscreen Usage. So I'll find the webpage and put the link right in there.
- COUNCILMEMBER SUGIMURA: Okay, great. And then I also wanted to add, when you can suggest videos for visitors to look at regarding this, you can add it to the bus shuttle, which HTA and Maui Visitors Bureau has just started at...from OGG or Kahului Airport to the West and South Side for visitors. So that would be another video because they have that capability. So thank you.
- MS. FELTON: Yeah. Wouldn't that be great, yeah.
- CHAIR KING: Okay. Thank you for the link, Dr. Felton. We also have a link to the Palau Legislation in the chat box for anybody who is interested. So if there are no other questions, we have one other...just I asked...a resource person I asked to say a few words. Before we do that, since Member Paltin brought up Dr. Downs, I just wanted to read from an email that you copied my office on that he was sending to Maui Nui Marine and Resource Council on the sunscreen issues. And in it, he says, "Since 2018, there is some good ecotoxicology evidence showing that octocrylene poses a danger to coral, fish, and invertebrates. Octocrylene breaks down in the bottle into a carcinogen endocrine disrupter called benzophenone." And he also...and he says, we petitioned the FDA to do a total recall on all octocrylene products because of the contamination of this FDA recognized carcinogen. And then he says, it is really expensive to do the environmental chemistry analysis, and it requires a high level of competence. In the past four to five years we have never specifically looked for benzophenone, just because we never expected it to be there because it shouldn't be there. But we kept getting this blimp of benzophenone, and in the past three years, the blimp has gotten larger. For example, here is some data on a beach sample from Hanauma Bay back in January 2020, the third row is benzophenone. So that's around one part per million, really high, didn't make a bit of sense until we discovered that octocrylene naturally degrades into benzophenone. We have similar data for beach sand in Maui collected back in November 2019. And I apologize, but I wasn't going to organize that data set for publication until the beginning of next month, and I don't think I will have the time to do it before tomorrow night. So he's asked for a little more time, but he's working on some of that additional information, and I'm sure that we'll get that information directly to Member Paltin too, who's working on revisions to the bill. So then thank you so much, Dr. Felton, for being here. And we may...when we get to looking at the actual bill, we may call you back if you're available. So really appreciate your input.

MS. FELTON: Oh, absolutely. And I'll keep...you know, I'm going keep track with the National

Academies, and I'm happy to help in any way that I can. And like I said, this a difficult issue, but I think it's a really important one. And I think, you know, the coral reefs are facing so much harm from rising...you know, rising sea temperatures and climate change impacts and chemical contamination and, you know, in frequent storms, et cetera that, you know, anything we can do to minimize the harm to them I think is really important. So I really admire you all for taking on this challenging issue. And if I can help at all or answer any additional questions, please don't hesitate to contact me.

- CHAIR KING: Okay. Thank you. And feel free to send in any information as you gather more data or anything you think is important for our work, and we'll make sure that the entire Committee gets the information.
- MS. FELTON: Sounds great.
- CHAIR KING: Okay. Thank you and aloha. Members, I also have invited Johnny Orlando, who is a pharmacist, who has been...who has testified before the Committee on the sunscreen issue before. And I did...he's on the call. I did get a note that Peter Landon said much of what he would have said, so I'm just going to invite Mr. Orlando to add any additional comments that you would like to add. Are you on here?
- MR. ORLANDO: Good morning, guys. Can you hear me?
- CHAIR KING: Yes, we can hear you. We can't see you, but we can hear you.
- MR. ORLANDO: Awesome, awesome. Hey guys, thank you so much for the opportunity. I think everything that was said this morning, thank you, was excellent. Peter Landon's presentation was great, and I think he covered a lot of topics I would have said as far as like a lot of these products are combo products, so they will have zinc oxide or titanium dioxide in it, but also all these other chemicals we've mentioned. So what ends up happening is just...as far as like a product standpoint is, it seems the companies are allowed to put that reef safe sticker on whatever they want as long as it doesn't have oxybenzone. So folks, consumers, will buy them with...kind of with like, you know, thinking they're making the right choice, and then there are other chemicals in the preparation without them realizing it. That may or may not have been said explicitly, that's the only real other thing I can add. Because I think Peter's presentation. And our last...I believe her name was Diana, I apologize, I'm at work and kind of running around...was great as far as the science. Is there any way I can help out to add or any questions that anyone has for me?
- CHAIR KING: Members, any questions for our pharmacist? We have a question from Councilmember Tamara Paltin.
- MR. ORLANDO: Okay.
- COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Orlando. I just was wondering like, you know, in your scope as a pharmacist, how many like sunscreen

prescriptions do you come across as far as...

- MR. ORLANDO: As far as prescriptions straight from a doctor, none. But being here, you know, that tends to be a pharmacy issue. You know, people ask about over the counter products. So sometimes I get folks who genuinely are trying to make the right choice and ask about reef safe sunscreens, I'll run out there and kind of hunt through. It can be challenging for what's available right now. I think one of the really best things that have come up in this meeting was that, you know, a couple of people had said instead of, you know, making a long list of things that are not allowed, have the law or whatever is going count say we're only going to allow these two chemicals. If we're going to do zinc oxide and titanium dioxide, that kind of makes it more clear as far as preparation. So that's kind of how I feel. I don't see doctors writing a prescription straight up for sunscreens, but I do see like with whatever prescription they're getting, they'll throw on the sunscreen or the reef...you know, the . . . *(inaudible).* . . . sunscreen and I, you know, generally let them know, like hey, there might be a better choice as far as, you know, our home and stuff like that. So it's kind of like I'm tied to it because I am a public figure and I am aware of over the counter preparations that way.
- COUNCILMEMBER PALTIN: Yeah. You know, before I learned about this, that Doc Martin's Sunscreen was my go-to, I used to love that stuff. And then...
- MR. ORLANDO: Yeah, did he stop making that? Because that stuff was great, huh?
- COUNCILMEMBER PALTIN: Yeah. I notice like his newer formula had the avobenzones in it. And I...when...after I talked to Dr. Downs I wrote an email, but I got no response. And now that I'm not in the sun as much, and I don't need to use anything every day, I'm not aware if he still sells the Doc Martins, but I think the last configuration was...had avobenzone, which I mean is not currently outlawed, but it's supposedly only marginally better. But...
- MR. ORLANDO: Right, right. I haven't seen his products in quite a while. I can't remember...it might even been almost eight to ten years. I can remember seeing that one coming around, and then I had not seen it. There's some product called...like I just seen them at Down to Earth recently, it's made at West Kuiaha, I think Maui Specially Made Here [*sic*], Maui something sunscreens, which is pretty good. I think Peter Landon made a good point with the nano particles, which has become like the next . . .(*inaudible*). . . of things people have been talking about, getting like non-nano. So that may not be the topic of this meeting, but I know it had something that had come up.
- CHAIR KING: Yeah, we did ask him, and he said to ask you if we wanted more detail about non-nano versus nano.
- MR. ORLANDO: I think he did as far as like what matters right now in this meeting, I would agree with that. Nano is basically just meaning tiny, tiny, tiny particles. So the thought there, because they are so broken up and tiny, that it could be absorbed more or potentially, you know, cause an issue. I can't say that I have read anything specifically that says nano particles are bad for the reef per se. Our last...I believe her name is Diana, I apologize, I'm at work...made a lot of really good points because...so when we

were in school...my bachelor's degree is actually in toxicology, and she made a lot of good points as far as what is and is not proven, because that's how it is with...in the science world that we try not to make stretching judgments on things until we have the concrete data out there saying one way or another. So she does make a lot of good points about not necessarily jumping to a conclusion. From what we have here in the scope of this meeting, I don't know if I'd say, let's go ahead and add like the non-nano particle thing. It's not wrong but, you know, making the legislation just allow what we are going to accept as those...like the individual ingredients, saying our zincs and our titanium dioxide versus just saying mineral sunscreens. Because then it's kind of you open yourself up to interpretation of what that is, and that's when you could get your Banana Boat guys with expensive lawyers, you know, weaving something around. Who knows what it would be, but just saying these guys are akamai so they can do what they're going to do to sell their product, yeah.

CHAIR KING: Okay. Does that answer your question, Ms. Paltin?

COUNCILMEMBER PALTIN: Sure does, Chair.

- MR. ORLANDO: Yeah, I think everything else that I had to say was already covered with Peter and Diana's testimony. It was excellent.
- CHAIR KING: We do have another question for you from our Committee Vice-Chair Shane Sinenci.
- VICE-CHAIR SINENCI: Mahalo, Chair, and aloha, Mr. Orlando. Yeah, so the term pharmaceutical grade, is that a scientific term, medical term, or is it something that the developers are using as a marketing when selling their product?
- MR. ORLANDO: I could say it's probably a little bit of both, to be quite honest. Pharmaceutical grade would be something that would be approved, most likely through the FDA, for use within a preparation. So for example, like I would do compounding over what used to be Wailuku Professional Pharmacy on Market Street, and we would have...we would make a lot of topical hormone replacement preparations, okay. And we would get these powders--think of them as bulk powders of the drugs--and then we would mix up the drugs, and that would be considered pharmaceutical grade. As far as like day to day selling them, and is it going to make a difference, I can't say yes or no, but I would highly doubt like, you know, one brand says pharmaceutical grade zinc oxide and which...this one just says whatever zinc oxide. There could be some purity issues that would be legit consideration affair. How easy would it be to find a pharmaceutical grade team with zinc? I can't say I know a product straight up off the top of my head. And like there are some of those brands that are like real surf brands that try very hard to, you know, be as clean and non-toxic as possible. I haven't seen that verbiage per se, but I would say that it is, as far as...to answer your question, yes, it is a real thing as far as pharmaceutical grade. How it's going to filter down into the consumer level. I'm not sure you're going to necessarily see it unless it turns into like...you know, nowadays you get a lot of like organic stuff, like organic has turned into a marketing term, like organic cookies. So I'm not sure that's necessarily changing things as far as organic cookies. It would make a difference with something like strawberries not having

chemicals sprayed on them. Does that kind of make it a little more clear, your question, what I'm getting at?

VICE-CHAIR SINENCI: Yeah, okay. Thank you.

CHAIR KING: Thank you, Vice-Chair. We have a couple more questions for you, Mr. Orlando.

MR. ORLANDO: Sure.

CHAIR KING: Councilmember Molina, followed by Councilmember Johnson.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Good morning, Mr. Orlando. You know, you're in the health industry and --

MR. ORLANDO: Yes.

- COUNCILMEMBER MOLINA: -- you're in a critical field. Has there been any push back from...the medical community will argue that, you know, you need these kinds of products that protect your skin and so forth versus, you know, the scientific community or the marine life community who are, you know, definitely advocating for . . . (inaudible). . .
- MR. ORLANDO: Well, from a dermatology standpoint, they are definitely on the we need sunscreen generally. I haven't necessarily seen them saying like don't buy into this mineral sunscreen business per se. But, you know, they're definitely pro. Like you take that more of a blanket statement, like something is better than nothing. So when I have to counsel patients and, you know, I'm not going to change a guy's eating habits overnight and say you're going to go from eating any kind plate lunch Monday, and then tomorrow you're vegan; it's a major jump. So from the medical side and the skin care side, they're definitely saying using something is better than nothing. I haven't seen much per se industry push back either, you know. I think the companies are just doing what...like they have the products they sell, and they'll sell them if they can. So now, you know, a lot of them have removed oxybenzone and put that little reef safe sticker on them. So now we're starting to see this next trend of people who say, well, why don't we just 86 all these chemicals. So they'll most likely adapt. But I haven't seen like real big like sayings...saying don't buy into it, whereas some of the things you do see that. Like for example...I hate to bring up this topic, but I will...the thing with the vaccines. You know, some folks have very strong opinions on that, whether it is or is not true, and I haven't seen so much of a movement with that. So if it goes through, I don't see like a major pushback per se. Plus we're just one state, you know, they can still market to everywhere else. But, you know, Banana Boat is the concern.
- COUNCILMEMBER MOLINA: Okay, great. All right. Okay. Thank you for your response, Mr. Orlando. Thank you, Madam Chair.

MR. ORLANDO: Sure.

CHAIR KING: Thank you, Member Molina. Next we'll go to Member Johnson.

- COUNCILMEMBER JOHNSON: Thank you, Chair. That was really my question from...Councilmember Molina took from me, so great minds think alike. Thank you.
- CHAIR KING: Great. Okay. Well, seeing no other questions, I'm going to thank, Mr. Orlando. And also, if you can stay in touch with us. Member Paltin will be working on revisions to the bill. So if you could...
- MR. ORLANDO: Great. That sounds good. I'm willing to help any way I can.
- CHAIR KING: And just looking at your previous...
- MR. ORLANDO: I see Councilmember Paltin's . . . *(inaudible)*. . . coral damaging sunscreens as well. It's very interesting.
- CHAIR KING: Yeah. And just in looking at your previous testimony, I just wanted to note that you were testifying in favor of instead of only banning the two ingredients, oxybenzone and octinoxate, change the verbiage to allow only the sale and distribution of projects [*sic*] containing . . .(*inaudible*). . .
- MR. ORLANDO: Right, right. And that is one to keep it...like, you know, you're down the road adding another chemical, and then another chemical, and also keeping it from companies finding ways around. I think it's easier and more clear to say we're just allowing these two versus have this long list of like we don't allow this, we don't allow this, and then tomorrow they change...like in the pharmaceutical world, as far as drugs, what companies do is they pick an old chemical, they kind of tweak it barely, and then they call it something else. So to get around that, you just say, okay, we're going to allow these two, that's that, and then no more all this hoopla afterwards. So that's kind of the reason, just to keep it simple on our side, and to keep it more clear moving forward for whatever the enforcement side ends up being. Okay.
- CHAIR KING: Okay, great. Thank you so much for calling in. I really appreciate it since I know you're at work.
- MR. ORLANDO: Great, guys. Yeah, I gotta go. I got lines.
- CHAIR KING: Okay. Aloha.
- MR. ORLANDO: Okay, guys. Thank you so much. Aloha. Have a good morning.
- CHAIR KING: Okay. We're...did you have a question, Member Paltin?
- COUNCILMEMBER PALTIN: Yeah, it's a question for you. I just was wondering if possibly Corp. Counsel would weigh in. I know it seems at this point, the preferred legislation would be maybe just keeping on with the fines on the banned subjects...I mean banned ingredients, but...
- CHAIR KING: Yeah. Well, I did intend to have, you know, a chance for you folks to ask

questions of Corp. Counsel, and...I see Keola is here. But I wanted to give the Department a chance to respond, the Department of Environmental Management, since they did respond in writing, so if they have any additional responses or thoughts since Mr. Agawa, Deputy Director Agawa has been waiting all this time. So thank you for being here, Shayne, appreciate it. Do you have any other...any other thoughts that you'd like to share with us?

MR. AGAWA: Yeah. Thank you, Chair King and Members. Thank you for this...to be able to comment on this bill. First of all, I'd like to say that the Department is in favor of the bill; however, we do have some concerns as our Department is going to be the oversight for enforcement. So as you mentioned, we did have comments submitted in writing, so with your permission, Chair, what I'll do is I'll go through all those comments and I'll elaborate a little bit on each of them for the sake of time, and then you guys can ask some questions. We also have Ms. Powell from the EP&S Division, who will be tasked with enforcement on...as well. So for the comments, the first one is pretty much selfexplanatory, it's removing the word "and" and replacing with the word "or" for the oxybenzone and octinoxate, and that's just to keep it consistent with the bill itself. And the last three is the meat of it. So the second one is to remove "use" from the title, and also to remove Part C in Section 20.42.010, that's the explanation of the use of it. The reason being is right now, our EP&S Division is really short staffed. We actually don't have a body in there that will be managing the enforcement of this legislature. We have a hiring process right now for an Environmental Specialist which will take on this task, but we have no physical body presently. The second comment is to provide provisions for additional staff and funding. Proper administration, education, and enforcement of the bill will require one additional staff member and approximately \$50,000 of additional funds in the year it becomes effective. We got that number by comparing it with the other legislative bans, the plastic bag ban and the foam free ban. Just to educate the retail level, distribution level, that's roughly what it's going to cost for educational materials, fliers, promotions, that type of thing. In addition to that Environmental Specialist position, we need one additional Staff member to help with enforcement of all these different types of legislations. The last one is consider a later effective date of one year after passage of the bill. The Department will need time to hire a new Staff, and need time to provide education and prepare for implementation and enforcement. To give you some idea of what that means, so the plastic bag ban was passed in August of 2008, and it actually went into effect January of 2011. So there was a two and half year gap between passing and being in effect. The polystyrene ban passed in May of 2017, and went into effect December of 2018, which is about one and a half years of passing of time before it went into effect. So in those two cases, it really helped our Department educate the retailers, the distributors, and it made the enforcement a lot easier with the limited staff we have. So in this case, we're asking for roughly about a year to get that additional Staff member, get the budget, and some time to educate the retail distribution level. If not, we foresee a lot of enforcement issues with no manpower to take that on. So that's the last comment we had. And I just want to make a quick comment on what Councilmember Molina and Paltin mentioned about, you know, how do we know, how do we enforce the use part, you know? There's so much unknowns. And if it's similar to, say, the foam cooler, where if your intent is the enforcement will be more towards education rather than confiscation type of thing, then we could make it work if you so see the use portion

being left in the bill. But our request is to have the use portion taken out just because of lack of resources.

- CHAIR KING: Okay. Thank you for that input. Let's see if Cecile has anything to add on top of that, and then we'll open...then I'll open it up for questions from the Committee for either the Department or Corp. Counsel.
- MS. POWELL: I just wanted...thank you very much, Chair. I just wanted to add that the actual funding was based on the foam free expenditures, which was the most recent. And I do anticipate that cost, you know, being more than 50,000 for the implementation and the enforcement, just for the education. And we know what that entails, and I have a price breakdown of all those line items that I can provide Shayne, if need.
- CHAIR KING: Okay. And is there a possibility of looking for grants that might help us do things, like the amnesty project, where we might do an exchange for folks who have the harmful sunscreens?
- MS. POWELL: We have in the past, and we partner with the community organizations throughout all of our legislations way back in 2011 when we did the plastic bag reduction ordinance. We've partnered with Surfrider in the past and different various organizations and, you know, that's just ongoing, and that's part of our standard operating procedure is with the recycling section. What we hope to do currently too with this implementation with the sunscreen, we...of course, yeah, we've been working with other organizations, but just our portion of it would be just the bare essentials of what our basics of what's worked with the plastic bag and the foam free, we sort of kind of mock, not reinvent the wheel, just kind of go along those same avenues of education and implementation.
- CHAIR KING: Okay. And hopefully you can maybe double up and do some of those things simultaneously with the same educational materials. Okay. Thank you so much for that, Department and I still don't see EP&S here, but we're going to go ahead and...well I guess you were speaking for EP&S, Cecile?
- MS. POWELL: Yes.
- CHAIR KING: Okay.
- MS. POWELL: Thank you.
- CHAIR KING: Okay. So at this point, Members, I'm going to open it up for questions. And let's try to keep it to two to three minutes for this first round of questions, but if you have questions of the Department or of Corp. Counsel. And we'll start with Member Paltin.
- COUNCILMEMBER PALTIN: I have no questions for the Department. I do see Dr. Downs has joined the presentation, so I don't know if there's time for him. But none for the Department. I think those are reasonable requests.

CHAIR KING: Do you have anything for Corp. Counsel?

- COUNCILMEMBER PALTIN: Oh, for Corp. Counsel, sure. Corp. Counsel, Mr. Whittaker, I was wondering if you could advise if it would be easy enough to just list...like which way do you think is more legally sound, to just list what we want, or list what keeps getting banned?
- MR. WHITTAKER: Thank you for that question, Councilmember Paltin. I would say that the key thing is to have the science in the record. So either way is fine, but it would be...from what I'm hearing from presenters, it may be a little harder to find the science...to just have those two chemicals as opposed to a ban on chemicals that science has shown harm reefs. But, you know, we can defend the law either way.
- COUNCILMEMBER PALTIN: Okay. So...and by science, you mean like maybe having papers from Dr. Downs and things like that submitted as part of the legislation, or as the reasoning behind the legislation.
- MR. WHITTAKER: You would want to have it as part of the legislative record. So it's something that you considered, and that you enacted the law because of the science, and this information that you received in the record.
- COUNCILMEMBER PALTIN: Okay. And as far as the branding, like Mr. Landon was saying about like things that say reef safe on it, would it be possible to say like, you know, how to stop that if it isn't really reef safe.
- MR. WHITTAKER: How to stop the using the labeling of reef safe, is that your question?

COUNCILMEMBER PALTIN: Yeah, like I mean non-flushable wipes labeling issue as well.

MR. WHITTAKER: I'd have to think about that one, Councilmember Paltin. And I have actually additional comments that I'd love to submit in writing to help you make this bill as strong as possible, as legally defensible as possible. And I understand your hesitation because, you know, if you want three legal opinions, we invite two lawyers to a room, right. But law is not an exact science, and that's the reason for it; but as we're learning, sometimes science isn't an exact science either. But what I can do, if you submit it, I will take ownership of it and I will give you as much information as possible, and list out the risks of going in either direction. And then of course, you as the policymaker can determine which direction to go to based on that information.

COUNCILMEMBER PALTIN: Okay. So you want me to submit a PAF or an RFS?

MR. WHITTAKER: Yeah, if you could submit an RFLS, I'll write up a memo for you answering your questions, and any additional questions you might have.

COUNCILMEMBER PALTIN: Thank you so much. Thank you, Chair.

CHAIR KING: Thank you, Member Paltin. Thank you, Keola. We really appreciate you stepping in and taking ownership of this issue because we need...you know, we need

to look at all aspects of it. But also, you know, for me, I think it's important . . .(*timer sounds*). . . oh, sorry about that. I think it's important that we make this as strong as possible. And the idea of putting use in there was to make it stronger than the State Legislation, otherwise there's no point in it because the State Legislation already covers the sale of these two chemicals. Member Molina, you have a question?

- COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. One question for Mr. Whittaker and one question for the Department. Mr. Whittaker, if you could direct me in the bill, is there a clause...I know there's penalties, but is there...if it isn't in there already, is there a component there for appeals. If someone say gets cited, they pay a penalty, they disagree, should we have something in there that provides an appeals process? Like recently, we passed the Social Host Bill, and if you get cited, you want to appeal it, in this case you would go to the Police Commission to make your appeal. Now, for something like this, would you recommend we have an appeals process in this bill?
- MR. WHITTAKER: You could have an administrative appeals process, but that's not necessary. It could just be a fine. If they want to challenge it, they can go to court.
- COUNCILMEMBER MOLINA: Oh, okay. So they wouldn't go to the...for example, the Department that will be overseeing is DEM. Someone in the Department can be designated as the person to go to for an appeal. So this, they would just take it, this...what, to State Court. I guess what...like, you know, Police, you have traffic fines, you go to Traffic Court. What type of court would you take this appeals to?
- MR. WHITTAKER: Well, first of all, the State law, they're going to have Administrative Rules that go along with it that may allow for an appeals process. With the Department of Health, those rules have not been issued yet. So it may be something...if the Department of Health is going to issue it, it may be something to model. But if we don't have that, you know, then it would just be like any other administrative fine, and they could challenge it in State courts.
- COUNCILMEMBER MOLINA: Okay. Thank you. And Madam Chair, just one question for the Department. For, you know, Director Agawa, you mentioned the need for addition personnel. And I don't know if you touched upon it like for the educational component, I would imagine that there would...you know, you would be going out to the schools, using social media, maybe mailouts. How much more would you need for that...I guess for that, you know, for the educational process in those areas?
- MR. AGAWA: Thank you, Member Molina for your question. I think Cecile would have a better idea of the additional funding for that portion.

COUNCILMEMBER MOLINA: Okay.

CHAIR KING: Cecile.

MS. POWELL: Yeah, that's what I had mentioned, that we anticipated more than the 50,000 total. With the foam free legislation and implementation...I'm sorry...the single use

plastics one that we're implementing as of January 1st of this year, that's costing...we estimated around 40,000 for the educational and the mailings. The mailings are actually twofold, one for the administrative rules and the public hearing notice, and we do it twofold through the distributors, and then education through businesses who are affected, and then we do the public education aspect of it. So with this case, the sunscreen, we would anticipate even more because we'll have to throw in the resorts, tourism, and retailers. So it would be a wider expanse, hence the more funding for that.

COUNCILMEMBER MOLINA: Any number you can throw out at us at this point?

MS. POWELL: Yeah, I mean, I initially set a 100,000 for a solid educational campaign. But I mean, we just work with whatever campaign we can get. I have a tendency to kind of do light saturation to moderate to heavy as it comes into effect with the media, and through print ads and radio ads and what not, so...it's multi-faceted, and we have guidelines to go from to base our new implementation off from.

COUNCILMEMBER MOLINA: Okay. Great. Thank you. Thank you, Madam Chair.

- CHAIR KING: Thank you, Member Molina. And of course, the State has started their education piece, so it may be easier for us when we get to our bill because the State...you know, we can piggyback on top of what the State is putting out there for its statute. Members, we actually have Dr. Downs on the call right now, I believe. So if we wanted to give him a few minutes. My thought is let's give...if Mr. Downs...Dr. Downs are you still there? Or maybe he left the call.
- MR. DOWNS: Yes. Can you hear me?
- CHAIR KING: Okay. So I'd like to give Dr. Downs a few minutes, and then we can go into our break if nobody else has any pressing questions. We're going...you know, this will come back once we get another version of the bill, so we can follow up with Corp. Counsel then, but let's give...thank you for being with us, Dr. Downs. And I wanted to mention that the email that I saw from you started out with, I am delighted with this bill. So that gives some folks an idea that you've been following what we're trying to do. So let me give you a few minutes just to add to what's been said already.
- MR. DOWNS: Sure. So I think this bill is a very good idea. The idea of this bill is not new. The U.S. Virgin Islands Senate and Governor has signed a similar bill into law. They have banned oxybenzone, octinoxate, and octocrylene because the science right now on octocrylene is gaining traction, showing that it impacts corals, it impacts fish. Octocrylene breaks down into a carcinogen, and I think by Friday or next Monday there will be a call for the FDA to recall all octocrylene products. So there is an environmental impact on octocrylene, but if you're only doing oxybenzone and octinoxate, I think it will have an impact in Maui because we still detect oxybenzone in a number of places like 'Ahihi, over at Black Rock, in front of the Sheraton, and this is this year. So we do detect these chemicals. They don't seem to be coming from products that are sold in Hawai'i, they do seem to be coming from tourists. So I just wanted to say, you know, thank you for the Council for considering a ban on use bill. I think that will be critical

in mitigating environmental pollution of these chemicals in Maui. So if you have any questions, I'm happy to answer them, or Councilmember Paltin and King both have my email addresses, so if you have any other questions, I'm happy to address them in email or in the next round of testimony.

CHAIR KING: Okay. Thank you, Dr. Downs. And I forgot, Members, to designate Dr. Downs as a resource person. So are there any objections after the fact?

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR KING: Okay. So we're going take a pause here and we'll...if anyone hasn't seen the materials, there is some information from Dr. Downs, you know, on Granicus. And I'm going to defer this matter if there are no objections.

COUNCILMEMBERS VOICED NO OBJECTIONS

ACTION: DEFER.

CHAIR KING: And we'll wait for another version of the bill. And I really want to thank also Councilmember Paltin for getting on this, and I love that it is coming from a lifeguard, our resident lifeguard on the Council. We'll set this one aside until we see the next version of the bill. Thank you to Mr. Landon, Mr. Orlando, Dr. Felton, Dr. Downs, Councilmember Paltin, Mr. Agawa, and Ms. Powell for being resource persons for this discussion. I think it's been extremely informative, and we can get some direction on how to move forward with all the information we've had. We'll go ahead and recess the meeting for...it's 10:44, so we'll recess until 10:55. And then we'll come back and get our...have our overview of the contracts, and then hopefully I'll get you out of here before noon. I understand Council Chair Lee has to leave early, but we'll try to see how much we can get through while you're still here. And flag me if you have any burning questions, and I'll get your question...give your question an opportunity before you leave. Okay. So 10:44, the CARE Committee is in recess until 10:55. (gavel)...

RECESS: 10:44 a.m.

RECONVENE: 10:55 a.m.

CHAIR KING: ... (gavel) ... Will the Climate Action, Resilience, and Environment Committee please reconvene? It's 10:55 on August 4th, and we are...

CARE-45: GLASS RECOVERY PROGRAM (GRANT G5330; MAUI DISPOSAL CO., INC.) (MISC)

CHAIR KING: Members, we're going to take up all three of these grants together, these contracts together. So we can have a presentation on each of these, CARE-45, CARE-46, CARE-53, and then we'll do a round of questions on these issues and see if we can satisfy everybody's questions with one round. If not, we'll take up another round. But today we have the Department of Environmental Protection Sustainability...is that you,

Deputy Director, are you going to do the report?

- MR. AGAWA: That's...Cecile Powell, is representing EP&S, and Elaine Baker who represents our...
- CHAIR KING: Okay. Do you want to give opening...do you want to give opening remarks?
- MR. AGAWA: No, I'll just refer it to Cecile. They oversee the grants and they have all the information, so I'll refer to Cecile.
- CHAIR KING: Okay. Okay, thank you. Thank you for being here. So we have Cecile Powell and Elaine Baker, and we'll open up with...Cecile, you're going to give us an overview of the Glass Recovery Program first?
- MS. POWELL: Yes.
- CHAIR KING: Okay.
- MS. POWELL: Thank you, Madam Chair. The Glass Recovery...the ADF stands for Advanced Disposal Fee, and that is...the Glass Recovery Program is made up of the ADF. The State charges one penny per container, and that's collected and distributed amongst the counties as per their divination. The Grant 5330 is one of two grants that's awarded for each year. The other recipient for FY'21 was Aloha Glass Recycling. Maui Disposal and Aloha Glass Recycling have been the only two eligible for funding for several years now. Just to give you a basic, the last year 850 tons of glass was recycled, 550 tons through the ADF grants program. So these monies were provided to the County through a State of Hawai'i, Department of Health grant that we received, and then in turn we distribute amongst the processors. The grant in question is to Maui Disposal, one of the two. These monies are used to subsidize the processing and the recycling and shipping costs of the non-deposit HI-5 glass, such as like liquor bottles, wine bottles, and glass jars. The grants and monies only pay for a portion of the glass that's received, typically less than half. So the shipping costs for Maui are higher than any other County, I would like to mention that. So this assistance is very helpful to our processors, to our MRFs that do process it. We have reviewed local options for local ADF glass, and two pilots are being recommended for support through grant monies, one of them being Revive Glassworks, and they are repurposing wine and beer bottles into useful products like candles, glasses, and planters. They also have in the intentions for potential...they have the intention and potential to recycle and remanufacture glass locally. That's their ultimate goal here. There's also Ridge 2 Reef, they currently have a pilot project that uses sand, wood chips, and the vetiver grass to filter wastewater. And they're currently up for a grant this fiscal year for equipment that's going to recycle glass aggregate to silica and...to replace the sand portion of this filtration system, and it could actually be an alternative for cesspools. So we're very interested in at least...I put it on the recommendations to the Department this year. It passed through the Grants Review Committee for FY'22 for funding for the equipment portion of this project. That's basically the rundown of the ADF program. I'm ready for questions whenever you're ready. Thank you, Chair.

CHAIR KING: Okay. Well, I think we were going to try to just get an overview of the three contracts so that we can...but I don't know. Members, what do you think? Do you want to do questions about this particular one that are...or are you okay with waiting...writing questions down and waiting? Okay. So I think we've got questions for you, but we're going to hold them.

CARE-46: CENTRAL MAUI LANDFILL ORGANICS PROCESSING FACILITY (CONTRACT C7093-1; A-MEHR, INC.) (MISC)

- CHAIR KING: Can we move on to the Contract C7093-1, the Central Maui Landfill Organics Processing Facility?
- MS. BAKER: Yes. This are designed...
- CHAIR KING: Elaine, can you show your video? Is that possible, just so folks can see you?
- MS. BAKER: No, I don't have that capability.

CHAIR KING: Oh, okay.

MS. BAKER: Because I don't usually speak. This was a design and construction inspection contract that totaled \$209,295, which we closed out July 22nd. And this constructed the organics processing facility that's currently sharing part of Phase 3 with the development of the new landfill cell. So it's not an operations contract.

CHAIR KING: Okay, but it's a private facility?

MS. BAKER: So...it will. It's our facility out at Phase 3 at the landfill.

- CHAIR KING: Oh, okay. So A-Mehr that's listed here, A-Mehr, Inc., they're the ones designing and constructing it?
- MS. BAKER: Right, but that has already been done.
- CHAIR KING: Oh, okay. Anything else to add on what that...what the Organics Processing Facility will do?
- MS. BAKER: Well, it receives green waste and grinds it, and it receives the biosolids and mixes them both. And currently then we're hauling them mixed up to the landfill.
- CHAIR KING: Okay. So you're going to process it and then haul it to the landfill, is that what I heard?
- MS. BAKER: Right. The processing is just mixing the two materials. Grinding the green waste and mixing it with the biosolids. And right now, since we've taken up our compost area for the construction of the new landfill cell, our only option has been to landfill these materials.

CHAIR KING: Okay. But what I'm hearing is that you're still...even with this facility, you're still going to be landfilling it?

MS. BAKER: Yeah.

- CHAIR KING: And it'll just be compost in the landfill?
- MS. BAKER: Yes. But we're processing the materials so they're a lot easier to landfill than they would be if you didn't grind the green waste or mix the sludge in with the green waste, the biosolids.
- CHAIR KING: Okay.
- MR. AGAWA: Chair, if I could elaborate a little bit.
- CHAIR KING: Yes, Deputy.
- MR. AGAWA: Yeah, and just to add to Elaine's comments, so...more for clarification. So this Organics Processing Facility is what EKO is currently working at. We had to downsize their footprint, which left them in no option to do composting, but we still have to dispose of the sludge and the green waste. So this Organics Processing Facility is a facility where it can be...the green waste can be mulched, mixed with the sludge, and then landfilled...until we can get another area for EKO to adequately compost, which we're currently working on.
- CHAIR KING: Oh, okay. Okay. Well, that makes more sense. So at least it's sort of an interim process.
- MR. AGAWA: Yeah. We cannot landfill the sludge directly because of the consistency, the water content. So this organics processing...the process itself is to mulch and thicken the sludge with the mulch in order for it to be landfilled properly.
- CHAIR KING: Okay, but the intent is to eventually go back to co-composting so we have a usable product that doesn't have to be landfilled?
- MR. AGAWA: Correct. That's in the land that we already acquired, we own; we're currently in the permitting process and working on that.
- CHAIR KING: Okay. Okay. Thank you for that, Deputy Director. Okay. Well, do you have something to add, Cecile?
- MS. POWELL: I did. I did want to mention, it's important to note that we are using the mulch, what's needed for the mulch to solidify fats, oils and grease and the sewage sludge, but any excess mulch, we are diverting throughout the community. So we are still technically diverting as much as we can.

CHAIR KING: Okay. Okay, great.

CARE-53: HOUSEHOLD HAZARDOUS WASTE COLLECTION AND DISPOSAL (CONTRACT C6968-2; CAMERON CHEMICAL CORP.) (MISC)

- CHAIR KING: All right. Let's move on to the third item, CARE-53 Household Hazardous Waste Collection and Disposal, Contract C6968-2, and this is for...the contract is with Cameron Chemical Corporation.
- MS. POWELL: Yes. This contract is designed to be multi-year...well, instead of multi-year, we're doing options to extend for each year, that being so that we can renegotiate pricing as the markets have been so instable globally. And this contractor did win the contract, we are encumbering \$75,000 for this fiscal year. Basically this is for one...a one-day event. We get monies...we get about \$100,000 per year for processing household hazardous waste. This year \$75,000 is going towards this one event, and then we have \$16,000 going towards a propane tank recycling pilot, and we also have antifreeze processing at select use motor oil collection sites. This event is a reservation only event, so residents do call and make an appointment so we can mitigate traffic. We do have between 300 and 400 residents that participate in it. I'm physically there all day helping out. The items that we do take are pesticides, oil-based paints, abrasives, fertilizers, fire extinguishers, car batteries, transmission fluids, CFL bulbs, and household batteries as well. There are now ongoing propane tank recycling, used motor oil, and antifreeze. And there's also ongoing medication take back programs with the local pharmacies, so we no longer accept these items at the event, but we have an ongoing program that we can divert on a regular basis. So that's the rundown of that HHW program. Thank you very much, Chair.
- CHAIR KING: Okay. Great. And are you working with any of the community associations in these events?
- MS. POWELL: Not that I'm aware of. I mean, I just promote it out through the entire County. So I have given flyers out so that they can then distribute amongst themselves, but we try to get the word out to everyone by any means possible.
- CHAIR KING: Okay. I was just asking because we did have the President of the Kīhei Community Association, you know, testify this morning. This was a particular interest, so if you're looking for volunteers, that might be a good place to find volunteers is the community...you know, the community associations.

MS. POWELL: Oh, great. Thank you very much, Chair.

CHAIR KING: Okay. Thank you for those reports. And Members, I'm going to open it up to the floor for any questions on any of these three items. Does anybody have any questions? Member Paltin, followed by Member Molina, and then Member Lee.

COUNCILMEMBER PALTIN: Oh, I'll yield to Member Lee if she has to leave early.

CHAIR KING: Okay. Let's let Chair Lee ask her questions first, she has to leave at 11:30. So
would you like to be the first.

- COUNCILMEMBER LEE: Thank you. I just have a quick question for Ms. Powell. You mentioned about the mulches distributed elsewhere. Where is elsewhere?
- MS. POWELL: Thank you. I actually have a thick packet of different folks that have taken mulch via tickets from EKO. They are required because we do pay them a stipend for tonnage that's diverted to incentivize diverting the excess mulch. That being said, it's a wide variety of different folks because there's a lack of composting now, particularly like for the sod farmers, and there's a lot of the agriculture folks have taken mulch to try to do their own composting at their own sites and do experiment with that. But basically it was just community members, essentially someone with a pickup truck who wants mulch for their backyard can go, and they picked up mulch themselves. Now, mulch isn't always available, so that's good to know because there has been...because of COVID, there has been a huge increase in tourism, and that means more sludge trucks coming in, and more solidification is needed. So that being said, when it's available for the public they do everybody...a little bit of everyone.

COUNCILMEMBER LEE: Okay. Thank you very much. Thank you.

- CHAIR KING: Thank you, Chair Lee. So Cecile, is that free...that they're picking it up for free, or they pay for it?
- MS. POWELL: At one point they did have it for free, but I can't advocate for the business. They are not required to give it out for free unless there's excess and there's a space. Then I can tell them, as contract manager, that we need to...we're not within the operating limitations of the permit, the solid waste operating permit. So I can then step in and say that they need to give it away for free, if anything, but they do charge a small amount per truckload if they have small kine amounts. So I can't vouch for it, their...their rates.
- CHAIR KING: Okay. Okay. Thank you for that. Member Paltin.
- COUNCILMEMBER PALTIN: Thank you, Chair. I just had two questions. On the HHW Program, when you said that pharmacies take back. How do you get that type of information when there's other people that provide that service out to the general public? I had some kind of gnarly cancer drugs to get rid of earlier this year, and I didn't want to flush them down the toilet, and what we ended up doing was throwing all the drugs into a diaper and then throwing that away.
- MS. POWELL: Oh, interesting. I physically called every pharmacy that I had when I Googled it, honestly, and I got that information, and is per request. As of right now, we've just received...we just hired another Recycling Specialist, La'akea Low, and he's amazing. And he's going to be working with the education and the website and the social media to get more on these programs and these options out to the community, because I have been alone in the recycling section for over two years now. And so...but like for instance Kaiser, they charge like a...\$5 for a box. And you can have a box, and you can fill it with your old medication, and you can drop it off to them. And then once you drop it

off, you can receive another box and refill it. So it's sort of like an exchange program once you buy into the vessel to submit your mediation to. Other programs offer a baggie, so you can go and fill the bag and turn it in to the pharmacy. But every pharmacy that I had called did have some form of a take back program for their medication. So then I don't see why we would pay for...use our public funding for...to receive medication if there's an ongoing program available out there.

- COUNCILMEMBER PALTIN: And sorry, just to clarify on what you just said, does the medication have to be from that particular pharmacy because...
- MS. POWELL: I asked that question, and no, it does not. It does not.
- COUNCILMEMBER PALTIN: Okay.
- MS. POWELL: You don't have to be a client or a customer of Kaiser to utilize their program.
- COUNCILMEMBER PALTIN: Awesome.
- MS. POWELL: You just need to go there with your \$5 to get the container.
- COUNCILMEMBER PALTIN: And then...
- CHAIR KING: It's like the flat rate box at the post office.
- MS. POWELL: Yes.
- COUNCILMEMBER PALTIN: Second question, related to the glass situation. And I'm not sure if you know the answer, but I used to have a colleague that said glass becomes sand. And he would just take all his bottles and break them and throw them into the ocean. I just was wondering, is that true?
- MS. POWELL: Technically glass does...glass is made up of sand silica, I mean, if you're looking at it from a science perspective. But it would have to be manufactured in a way...de-manufactured, in a sense. Like this equipment for this grant that we're looking at, we have all...in the past, we've also had grant submittals that we were entertaining for a smaller types of machines, but it would have to break it back down to the silica in order for it to be considered sort of sand-type material. Breaking up your glasses and busting them up and throwing them in the water is not the answer, and I wouldn't recommend that to anybody. But, you know, this type of machine does have the potential to even work for golf courses...for sand at golf courses.

COUNCILMEMBER PALTIN: How about to make concrete?

MS. POWELL: I'm not sure about the concrete. I would think...I mean, just from my background, it would be a different consistency if you were to use glass for that, it would ruin the integrity of the structure. But I can't...I'm not an expert in that field, but I wouldn't...I have not seen any glass being a substitute for concrete, only like the sand type of silica type. It's a very fine sand.

COUNCILMEMBER PALTIN: So like playgrounds and non-natural...

MS. POWELL: I'm not even sure about the playgrounds. The only one that they did specify in their pilot as a potential option would be like for golf courses. But yeah, I would have to be...the reason why it would be pilot is because they would want to entertain these types of options and try them out to ensure that they would actually work for that process.

COUNCILMEMBER PALTIN: Okay. Thank you. Thank you so much.

CHAIR KING: Thank you, Member Paltin. So, you know, Cecile, I know from talking to Tom Reed that they were using crushed glass in asphalt.

MS. POWELL: Yes.

- CHAIR KING: And I asked him if there was a requirement at one point, I don't know what happened to that requirement. He got really frustrated because asphalt companies were finding ways around that requirement, so he stopped crushing the glass.
- MS. POWELL: From my understanding there was like a...it wasn't adhering...what's the opposite is the term. Gosh, I can't think of it, I must still have pregnancy brain. It's not sticking...
- MR. AGAWA: It was a lack of porousness to the glass, so it wasn't adhering to the asphalt.
- CHAIR KING: Okay. Because he had told me that there was a requirement for ten percent of all asphalt to be recycled glass if it was available. And then I don't know what happened to that, but maybe we should follow up with that too, to see if that's something.
- MS. POWELL: Actually, it was an attachment to this CARE Committee agenda, the letter from the glassphalt folks. It was...I have it from...Hawai'i Asphalt and Paving Industry did say that it was...it does not...the problem is the asphalt does not stick to glass; therefore, asphalt properties that rely on the sticking are generally not as good. I would follow up with them because they went through a lot of processes to counteract that ten percent requirement.
- CHAIR KING: Yeah. So they're called glassphalt, and yet they're not using glass. Okay, that's interesting.
- MS. POWELL: Oh, I'm sorry, it's Hawai'i Asphalt Paving Industry.
- CHAIR KING: Oh, they were just responding to something about the glassphalt. Okay.
- MS. POWELL: About what's called glassphalt. We do have...over at the college, we have...a couple of our recycling centers have glassphalt. The one up at Makawao as well just does like examples of it, but....

- CHAIR KING: Yeah, you know, I have a friend in Austin who turned his whole front yard into crushed glass and when he weeds, he uses a blow torch. So it's really interesting for his neighbors to see him out there with a blow torch weeding his front yard. Member Molina, you had questions?
- COUNCILMEMBER MOLINA: Yes, yeah. Thank you, Madam Chair. One of my questions had to do with the composting, so that's given free to, I guess, any business with the condition that I guess they're supposed to give it out free or just if they charge, it's something very nominal. Am I correct with that?
- CHAIR KING: Are you talking about the mulch that she was talking about?
- COUNCILMEMBER MOLINA: Mulch. I'm sorry, the mulch, yeah.
- CHAIR KING: I don't think so.
- MS. POWELL: Well, the mulch stipulates like...right, I'm hesitant to say that. It was free at one time because we had excess mulch, and we were in...at risk of being in violation of our capacity levels for the Department of Health...our solid waste permit. So we have to be careful about what our capacities are. And at that time, we had excess mulch and needed to divert throughout the community. We required it. So I was able to step in with the contractor and basically tell them they had to give it away for free. Now, since then, it has been a popular commodity, and they've been charging different rates, and I can ask them for what the rates are. It really wasn't much. Even when they were composting, I believe it was \$37.00 for a truckload of compost. So I can't imagine the mulch would be too excess in price, but it's not free at the moment unless there's an excess, and then I step in.
- COUNCILMEMBER MOLINA: Okay. Next question, real quickly with the glass recycling. So...and if I missed it, I apologize. So do we recycle crushed glass on island, or is this all done off island, and where?
- MS. POWELL: Okay. So right now, we have two...two approved ADF processors on island, and it's approved through the Department of Health, to attain that approval as an ADF processor. One is Maui Disposal, and one is Aloha Recycling. And as of right now, everything is going to Strategic in Oregon.
- COUNCILMEMBER MOLINA: Okay, great.
- MS. POWELL: And then it goes through a machine and it goes through...they have a glass eye and it does...it separates the different colors, and then it gets melted down and made into new glass from there, through different processes and their own clientele. Now, glass...the Revive Glassworks recently obtained that approved ADF and use and is local, but I mean. the capacities are pretty low at this point on what he's producing there, but I went and toured that facility if you have questions about that.
- COUNCILMEMBER MOLINA: Oh, great. Okay. Yeah, that's something I'd like to go take a look at one of these days. And last question. I like the program with the hazardous

materials, you set up these dates where the community can drop off. Now, has there been any discussion doing pickups...like for example, the County will pick up old appliances. Has that ever been considered for hazardous materials? I mean, let me use as an example, my colleague, Member Paltin in Lāhainā, she just painted her beautiful house in Nāpili. And now she's got all this leftover paint, and she can't come out on that date to drop off all this old paint. Any thought, or is it too cost prohibitive for the County to do a pickup service of hazardous materials.

- MS. POWELL: Yeah, the pickup service is rough. I mean...and when you get into that, then there's all these logistical clauses, and then you have Hana side. And you have...we want to service everybody. Now, with paint, I do have to say that if it's not oil-based paint, if it's water based paint, the VOC levels are so low now that it's not technically considered hazardous waste at this time. So we only receive the oil-based paint for our program. It's basically just like the once a year thing and, you know, we have talked to community members, and you know, one person in the community would come...literally they come with a big truckload with all their neighbor guys' stuff as So I mean, there's always that...you have your kids come or you have your well. neighbor come. And you'd be surprised how much communities actually do that. Appliances...now, appliances with freon are considered hazardous waste, but we have a contract...EP&S under the vehicle section, manages the contract. I don't manage that one, but I do know that it's with Schnitzer Steel, and they process all of our white goods. There's two different ways that a resident can drop off. They can drop it off for free at Schnitzer Steel at Hammerhead, or they can sign up to be picked up on curbside. But mind you, there's a \$25.00 fee, I believe, that...you'll have to verify that with Solid Waste Division, but I believe that they still charge the \$25.00 for a pickup fee, and they wait until there's a whole load. Because the guys go out there with a flatbed on overtime, and they'll go and they'll pick it up in that area when there's a whole truckload in the area to pick up. So you will sign up for the program, but then they'll call you back with a day to put it out on the side of the road. That's why there's this misconception about, I called the County and I put my appliance out on the side of the road and it's been out there for a month. Well, that's why. Because they're not going to use County monies to go out for every single person, they organize a mass pickup for your area at that time.
- COUNCILMEMBER MOLINA: Okay, great. Well, thank you very much for that information, Ms. Powell. Thank you, Madam Chair.
- MS. POWELL: Sure.
- CHAIR KING: Yeah. Thank you, Member Molina. Next we go to Committee Chair...Vice-Chair Sinenci.
- VICE-CHAIR SINENCI: Mahalo, Chair. And yeah, mahalo, Ms. Powell, for your presentation. I just had a question about, you know, people have been working hard to try and diversify a lot of the economy on Maui. And so my question was, has any non-profits or businesses approached you guys about reuse of either the green waste or the glass to do...whether it be products or materials, building construction materials or something like that, to repurpose the green waste or the glass?

MS. POWELL: Well, the green waste, as far as construction material goes, I haven't really found out any sort of methodology to make that work. But as far as the glass goes, as part of the Ridge to Reef's equipment grant is that they are piloting options for...you know, like if you're going to put a--what is the thing--the big tunnel thing underneath the driveway...culvert.

CHAIR KING: Culvert.

VICE-CHAIR SINENCI: Culvert.

- MS. POWELL: If you're going to build a culvert, you could use it as fill in certain ways. They're entertaining certain types of use for that, and that would be sort of part of that pilot, but I guess you'd need the material before you would try to go from there. But as far as the green waste, we have had...we get folks coming in asking us pretty consistently throughout the community. We work with the community ongoing on a weekly basis. We're always talking with folks and communicating with folks about programs. And, you know, that's part of our kuleana, actually. But the green waste portion, we're running into problems because if it's over a certain amount of cubic yards per year, you're not able to compost, even if it's agriculture land. So it's mandated. So we're running into like permitting wise, for ongoing composting...an ongoing composting facility, we are facing different hiccups, if you will, throughout that process.
- VICE-CHAIR SINENCI: Okay, we can...and my office can contact you to get more information from you.
- MS. POWELL: You can always contact me with more information.
- VICE-CHAIR SINENCI: Okay. Thank you, Chair.
- CHAIR KING: Thank you, Committee Vice-Chair. Members, any other...Member Johnson or...let's see, Member Johnson, you have a question?
- COUNCILMEMBER JOHNSON: Yes. Thank you, Chair. I appreciate the programs and everything that's happening. I...you know, we all know that there's a major need to recycle some of the stuff and, you know, expand our lifespan of our landfills. But, you know, I'm the representative of Lāna'i, and...I mean, this isn't for Lāna'i, and do you guys have future plans for Lāna'i, as well as Moloka'i?
- MS. POWELL: I have to say that Lāna'i, we used to have recycling on Lāna'i a long time ago. And I used to go every fall since 2007, '08, '09, with Trilogy when we give away turkey day. I used to physically go there and give out the bags and do education over there. And I look forward...

COUNCILMEMBER JOHNSON: I might have ate one of yours.

MS. POWELL: And I look forward to going there again. Right now, Lāna'i...we do have the used motor oil collection at the Napa Station over there. And there is a HI-5, and they

do have a grant with equipment for forklifts over there that they do utilize. And I do have the intention, you know, now that we have more...we have hired one more Staff, it is a big deal for us to expand to Lāna'i. It's been on my high priority list literally for, you know, the last three years to kind of get back to Lāna'i.

- COUNCILMEMBER JOHNSON: I'm with you on that, Ms. Powell. I want to kind of update you real quick before you go on is that, you know, our one gas station that you mentioned has now been bought out by Pūlama Lāna'i. So they have maybe a little more deeper pockets, I'd say, than Trilogy does, and maybe they could help with doing more in that regard at their gas station. Because, you know, I'd like them to continue doing what they're doing at their gas station. It's the only gas station we have. So because of the changing ownership, maybe it's an opportunity. That's all.
- MS. POWELL: Thank you. I appreciate that. I wrote them down, and I'm going to make a note to reach out to them. Thank you very much.
- COUNCILMEMBER JOHNSON: Aloha. Thank you so much. Thank you, Chair. I have no further questions.
- CHAIR KING: Thank you, Member Johnson.
- MS. POWELL: Thank you. And I did want to want to mention that Moloka'i, we have...you know, we have refrigerant recycling over there. They have ongoing programs for metals recycling, whereas we on Maui...they have more programs on Moloka'i for their metals than Maui does, as far as like consistency and ongoing. And we also have our recycling center over there. And they have the HI-5 over there, as well as they have green waste processing, which actually, just recently changed management from EP&S over to Solid Waste Division for the landfill itself. But...and then we manage the Recycle Moloka'i contract, and that offers ongoing electronics recycling drop off and...as well as used motor oil, and they have a paint reuse situation over there as well. Thank you very much.
- CHAIR KING: Then of course, I think you guys always forget to mention it, but we do do used cooking oil pickups on both Moloka'i and Lāna'i and grease trap recycling, that material gets picked up and reutilized. Let's see, any...Member Sugimura, did you have any questions? I know you joined us a little bit late after, but we've had a good overview. Thank you so much, Department. It's good to see...I mean, is there a goal. I'm hoping that there's a goal eventually of getting to more recycling on island, especially with our glass in our Class 6 here, you know, rather than just shipping off island because that's, of course, the most efficient thing to do with it. If we can get to the point where we can create other products from the materials that we are landfilling currently, then we move more towards that circular economy model.
- MS. POWELL: Yes, that's definitely a huge goal for EP&S as a whole, but there's also the consideration that the global market has essentially crashed for commodities, such as --

CHAIR KING: Right.

MS. POWELL: -- cardboard, the OCC is basically the highest paid right now. And the boxboard or chipboard is considered a contaminant at this point, and they're only palleting...like up to 15 percent of a pallet can have that type of material on there. So it all goes with shipping costs and it's a commodity market on what's available. And then it's also...like as far as locally, as you know, permitting and the processes for...I mean, if you're going to melt plastic down, that's a huge impact...environmental impact for our island --

CHAIR KING: Right.

- MS. POWELL: -- if we're going to put a facility on there. So we have to think about all different avenues and the feedstock, as well as the outtake and the hazards with that output when we're evaluating our options. Thank you very much.
- CHAIR KING: Yeah, it's great that you're looking at that, because I know at one point there was a model...I heard about it from several people that got really excited about this model of melting plastic down and turning it back into fuel. And I had to remind everybody that plastic is made with fossil fuel. It's basically made with petroleum, so all you're doing is melting it back down and burning petroleum. And then when they thought about that, they went oh, never mind. So you always have to consider the environmental impacts of the processes and what the end product you're looking for, you know. Did you have another question, Member Paltin?
- COUNCILMEMBER PALTIN: Yeah. Just to your point about recycling more locally and, you know, we have had issues, I guess, with the plantations and former big ag and, you know, their black plastic and things like that. And I just was wondering if there is...you know, I've seen folks instead of using black plastic or whatever, using shredded paper, you know, to kind of create like a little bit of a paper mâché around their plants, like just have a top layer of that. And that also helps to keep the moisture in around...it's kind of like a mulch. And I know like, you know, here, when we shred our paper in our office, I take it home and I put it in my compost bin, which I think I got sponsored from the County. But I just was wondering like if maybe now with Mr. Low on your team, we can look into those types of partnering situations like, you know, if offices have an excess of shredded paper, what are they doing with it. Would farmers want it around their trees, like maybe even have like some sort of a hub like that. I also got communication from a constituent who...well, I don't know if he's a constituent, because he doesn't live here, but someone that recently purchased a short-term rental in West Maui, and he was kind of surprised to see that there's recycling efforts and ratings for like businesses and homes, but not so much for condos and condotels. And he wanted to partner up and try to make like some sort of standards or ratings and method forward for them and, you know, their guests to help become a part of the solution. And I just was wondering if you guys were working on that at all, or interested in partnering?
- MS. POWELL: I actually have been working with condos and resorts throughout the years off and on since 2007. But, you know, it's dependent upon funding and Staff, and we do have different...we're always researching and developing new ideas in that regard. One

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being the shredded paper was, and trying to figure out what to do with shredded paper, but ran into some legality problems. Even if it is shredded, we're not able to take any of the County documents that's shredding from like the DMV, for instance, and reuse that, it has to go through the Shredex facility and be disposed of through them. So other people, like for your home shredder, you can use it for worm composting, which...vermicomposting. We've had ongoing composting workshops in the past, and we are hoping...you know, Shayne putting in the line item for a budget in the following fiscal year to hopefully get that home composting workshops back into place so at least folks can utilize their own paper. We're also entertaining...I'm going to be meeting with our processor for our drop boxes to sort of get a new update on the global commodity market to see what we can add in our drop box recycling, such as office paper. It would be great because it's called...considered a super mix now. So we're always moving forward, and we're always trying to find out new innovative ways of recycling, especially locally . . . (timer sounds). . . We want the circular economy, it's our main objective here in the recycling section, and I'm always open to any communications from you folks...any ideas from you folks, because I think that many heads are better than just one.

- COUNCILMEMBER PALTIN: Yeah. I guess on that, would you mind putting your email in the chat? And I mean, even in addition to shredded paper, maybe cardboard as well like, you know, so the shredded paper doesn't fly away before you wet it down or something like that. I mean, that's seems like a nice way to recycle cardboard on island.
- MS. POWELL: Sure. I put my email in there.
- CHAIR KING: Thank you, Member Paltin. Yeah, I think that whole concept too is part of the permaculture education. So when you get your...I mean the first person I knew of who was actually doing commercial permaculture was Pat Simmons, Jr., and we actually hired him to do a little garden here at our yard. I think it was his first job since he got back from being at school on the west coast. But he put in all that shredded paper and cardboard as kind of a mulch type of thing before he did the planting.

COUNCILMEMBER PALTIN: Yeah. My mom does it too.

- CHAIR KING: I was thinking permaculture too would be a good idea.
- COUNCILMEMBER PALTIN: Yeah, it looks like snow all around my mom's garden. And the problem over there, I guess, is they got pigs, and the pigs are attracted to the worms that take up residence under the shredded paper, so that's kind of a problem. But if you don't have pigs, no big deal.
- CHAIR KING: Yeah. So I think there's just a lot of this stuff will hopefully be fleshed out too as we create this model that the Climate Change office is working on for the circular economy. Because there's so many resources out there that we used to call trash that could actually be made into some kind of a saleable product. And one of the issues that I heard when I was more involved with what was happening at the landfill was that the folks who were interested in doing recycling, their cardboard or glass or...you know, they had a hard time bidding on the whole contract for the landfill when that Anaergia

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project was bid out. But if it had been broken down into components then, you know, one small business could bid on the cardboard say, and somebody else could bid on the glass, and someone else could bid on the plastic. And if it was broken down that way, it might encourage these types of businesses to be local...be local folks who can come in with innovations and work on getting our quote, unquote, trash recycled into, you know, some kind of usable products. So anyway, something to think about. Yes, Cecile.

- MS. POWELL: I just wanted to also mention...thank you...thank you, Chair...that there's also the other side of the coin, like the reduce the waste reduction. For instance, we do have a pilot program over...Uncle Bobby's Farm on Moloka'i, actually. We purchased him a sand filtration system for his farm, and in doing so, he saves 30 miles of tape...of the tubing for running his agriculture for watering his plants because it doesn't get clogged through this new sand filter. So we can see that we are able to reduce waste in that regard, as well as ways to reduce the waste, let alone what to do with the output of it. So not looking as our rubbish as a necessary feedstock so that it's encouraged to generate so much waste, because we need it as a feedstock for these new innovative ideas. It's also there's the other point of just like reducing it all together. So there's all different ways of...there's a lot of blueberries it takes to fill a bucket, is what I always say. So thank you.
- CHAIR KING: Or maybe you could talk about opihi or something that actually grows over here. But, you know what, I...no, I really appreciate that approach because we're all constantly, especially anybody who farms here on previously sugar cane use land, is we're constantly dealing with the black tape. It's constantly coming up and, you know, we have...on our farm we have work...when we do...when we used to do in-person tours, groups like MECO and Maui Hui Malama would offer to do a work project when they came to do the tour. And they would generally just...their work project was picking up black tape. And they would just start at one end of the field...and I think the first time we had a group come, they filled up 21 bags...those big tall plastic bags, and like packed it to three-quarters full of just plastic tape, just walking across the field and pulling it out of the ground. And that's, you know, just scratching the surface...literally just scratching the surface. So that black tape...one of them whose dad actually worked with my husband on the very first biodiesel plant here on Maui, the one on Maui, he was asking me why...does it hurt it to leave it in the ground? And, you know, I said well, not really, we can still plant. And he said, why are we picking this up then? And then I explained to him, because it makes its way into the ocean, and then we have birds and marine mammals that are eating it and dying from it. And that kind of made sense to him. So, you know, you kind of have to go into those full explanations too, to the generations that haven't dealt with this of why these things need to be taken out of our environment. Any other questions, Committee Members? If not, we'll thank the Department for your overviews and for the discussion. I'm going to go ahead and I'll entertain a motion to file these three contracts, just knowing that we'll have ongoing conversations about recycling. But as far as CARE-46...or CARE-45, CARE-46, and CARE-53, do I have a motion to file these items?

VICE-CHAIR SINENCI: So moved.

CHAIR KING: Committee Vice-Chair Sinenci.

COUNCILMEMBER JOHNSON: Second.

CHAIR KING: Seconded by Member Johnson. And any discussion? If not, all those in favor of filing these items, raise your hand and say "aye."

COUNCILMEMBERS VOICED AYE.

- CHAIR KING: Okay. Unanimous. One, two, three, four, five, six. One excused, Member Lee. And we'll go ahead and file these contracts, but I really appreciate . . . *(timer sounds)*. . . the ongoing discussion about recycling. So thank you, Deputy Agawa and Ms. Powell and Ms. Baker.
 - VOTE: AYES: Chair King, Vice-Chair Sinenci, Councilmembers Johnson, Molina, Paltin, and Sugimura.
 - NOES: None.

ABSTAIN: None.

- ABSENT: None.
 - EXC.: Councilmember Lee.

MOTION CARRIED.

ACTION: FILING of communications.

CHAIR KING: Okay. With no other items pending before this Committee, it looks like we are...we can adjourn early. It's 11:40, and unless there are any objections, the CARE Committee is adjourned for August 4th. ...(gavel)...

ADJOURN: 11:40 a.m.

APPROVED:

Kelly 7. K

KELLY TAKAYA KING, Chair Climate Action, Resilience,

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Environment Committee

care:min:210804min:ta

Transcribed by: Terianne Arreola

CERTIFICATION

I, Terianne Arreola, hereby certify that pages 1 through 48 of the

foregoing represents, to the best of my ability, a true and correct transcript of the

proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 17th day of September 2021, in Wailuku, Hawai'i

Terianne Arreola