

ASSOCIATION OF BAY AREA GOVERNMENTS

Representing City and County Governments of the San Francisco Bay Area



ABAG

December 14, 2007

DEC 17 2007

Harold Moskowitz
Chair, Supervisor, District
County of Napa
1195 Third Street, Suite 310
Napa, CA 94559-3035

RECEIVED

DEC 19 2007

DEPT. OF
ENVIRONMENTAL MANAGEMENT

cc: BOS
A. Watt
S. Redwood

Re: Extended Producer Responsibility – A New Approach for Managing Waste
Electronics, Batteries, Fluorescent Lights and Other Toxic or Hazardous Products

Dear Chair, Supervisor, District, Moskowitz:

We are writing to bring to your attention the increasing costs local jurisdictions are now shouldering for the disposal of toxic and hazardous products, and to suggest actions that your jurisdiction can take to relieve the pressure on tax payers to support these costs.

Since 2006, when the “Universal Waste” ban went into effect, certain electronics, fluorescent lamps, and batteries may no longer be sent to local landfills. Many counties around the state have documented huge increases in the costs of legally disposing of these materials. Municipalities are concerned about waste pharmaceuticals entering the solid waste stream. Publicly owned water treatment works are similarly concerned with the water quality implications of pharmaceuticals entering treatment plants.

The attached fact sheet was prepared by the California Product Stewardship Council (CPSC), an organization whose members include 24 cities, counties and other government associations (such as Bay Area Clean Water Agencies and the Regional Council of Rural Counties), and counting. CPSC’s goal is to make local governments aware of the staggering scale of the post-consumer product disposal challenge.

There is a new approach that is rapidly gaining momentum in California thanks to the California Integrated Waste Management Board, the CPSC and others. Termed Extended Producer Responsibility or EPR, it is a fundamental paradigm shift that if implemented will move responsibility for reusing, recycling, or disposing of post-consumer products away from general taxpayers and back to manufacturers.

The California Integrated Waste Management Board (CIWMB) recently adopted Strategic Directive 5, which states that it is a core value of the CIWMB that producers assume the responsibility for the safe stewardship of their materials in order to promote environmental sustainability. Under this directive, the CIWMB will 1) Utilize existing



The 'Universal Waste' Disposal Ban

A Financial Crisis for California's Local Governments

In February 2006 a statewide ban went into effect in California that makes it illegal for households and small businesses to put certain hazardous products in the trash. The products banned from the trash – called **Universal Waste**, or **U-waste** – include batteries, fluorescent lights and many electronic products. Local governments were charged with enforcing the ban and were expected to provide collection services.

Universal Waste Products are Toxic

Most **consumer electronics** pose a threat to public health and the environment because they contain lead, cadmium and a host of other toxic heavy metals. **Fluorescent lamps** and **thermostats** contain mercury, a potent neurotoxin. Even **household alkaline batteries**, which contain corrosive chemicals, are hazardous when millions accumulate and leak in landfills.

How Much U-Waste is in California?

A 2001 study commissioned by the California Integrated Waste Management Board calculated that almost **600 million small batteries** and **more than 17 million fluorescent lamps** would be sold – and a similar number thrown out – in California in 2006. More than a **quarter million tons of hazardous electronics** not covered by SB20 are discarded every year.

U-Waste Type	Projected 2006 Sales
Fluorescent Lamps	17,444,444 lamps
Batteries	593,864,218 batteries
Thermostats	365,282 thermostats
SOURCE: CIWMB, 2002, <i>Household Universal Waste Generation in California</i>	

Hazardous Electronics in California Not Covered by SB-20	
Computer-related Electronics (<i>key boards, laptops, mice, disk drives, printers</i>)	119,917 tons
Other small consumer electronics (<i>portable non-computer related electronics: PDAs, cell phones, camcorders, digital cameras, etc.</i>)	93,273 tons
Brown Goods (<i>larger, non portable electronics: microwaves, stereos, VCRs, DVDs, etc.</i>)	41,394 tons
Total Non-SB20 Electronics	254,584 tons
Source: CIWMB 2004, <i>Statewide Waste Characterization Study</i>	

Governor Vetoes Legislation to Require Multifamily Recycling Opportunities

CAW-sponsored [AB 548](#) (Levine) would have required apartment owners to provide recycling services to their tenants. In his [veto message](#), the Governor cites significant costs as a deterrent in the legislation.

The legislation would have expanded recycling opportunities to the more than 7 million Californians living in apartments and other multifamily dwellings that still lack a basic recycling opportunity where they live.

CAW worked closely with the California Integrated Waste Management Board (CIWMB), recyclers, local governments and apartment owners in crafting the legislation. The only known opponent was the California Apartment Owners Association.

Earlier this year the CIWMB identified expanded multifamily recycling as an important 'early action measure' to reduce GHG emissions, as well as increase recycling. [AB 548](#) tracked that recommendation.

If Governor Schwarzenegger is unwilling to take the relatively modest step of requiring recycling at apartments, I'm perplexed as to how the Governor will make serious progress toward the State's more ambitious GHG emission reduction goals.

Toxic E-Waste Bill Vetoes

[AB 48](#) (Saldana) would have prohibited the sale in California of electronic devices that contain certain hazardous materials, including lead and mercury, consistent with the European Union's RoHS (Reduction of Hazardous Substances) directive by 2010. In his [veto message](#), the Governor cited unexplained and ostensibly harmful consequences of the bill.

The provisions of [AB 48](#) track a policy that's already been in place for 4 years in California on computer monitors and televisions, and which the Governor expanded earlier in the week by adding lighting products ([AB 1109](#)).

[AB 48](#) was in response the [California Department of Toxic Substances Control's](#) (DTSC's), ban on the disposal of most consumer electronics due to the presence of toxic heavy metals.

It's been more than 5 years since DTSC identified consumer electronics as toxic and announced their plan to ban disposal. California continues to dispose of more than 500,000 tons of toxic electronics annually due to lack of awareness and opportunity.

I'm afraid that at this point we've exhausted our administrative and legislative remedies in trying to curb the illegal disposal of toxic electronics. For the foreseeable future it will have to be up to consumers and the courts to sort out what electronic products are safe and what products should be prohibited from sale.

Energy Efficiency and Pollution Prevention Bill Signed

Governor Arnold Schwarzenegger signed into law groundbreaking legislation creating a comprehensive strategy to increase energy efficiency and reduce the amount of hazardous waste in today's lighting.

AB 1109 by Assemblymember Jared Huffman (D-San Rafael) will substantially reduce California's energy consumption over the next ten years, while also bringing the state forward in the fight on global warming with the potential to reduce CO2 emissions by more than 6 million tons.

Governor Signs Pharmaceutical Disposal Bill

Governor Schwarzenegger signed SB 966 (Simitian), which will allow local governments, retail pharmacies and other organizations, in consultation with various state agencies, to develop programs for the take back and proper disposal of unused or expired pharmaceutical drugs.

Beverage Container Recycling Funding Legislation Signed

SB 1021 by Senator Padilla was signed by the Governor into law. The bill, aimed at increasing recycling opportunities in multifamily dwellings, will use unclaimed bottle bill deposits to help fund multifamily recycling programs.

Other Significant Legislative Actions

-AB 1108 (Ma) - Prohibits the use of specified phthalate chemicals in toys and childcare products designed for children up to 3 years old; prohibits the use of chemicals known to cause cancer or reproductive toxicity as a replacement for banned phthalates. Signed by Governor Schwarzenegger.

-AB 888 (Lieu and Laird) - Requires large commercial buildings built after 2013 to meet minimum green building standards adopted by the state or, if no standards are adopted, the LEED Gold standard. LEED is the internationally recognized green building guideline established by the U.S. Green Building Council and already used by the Governor in his green building executive order. Vetoed by Governor Schwarzenegger.

-AB 258 (Krekorian) - Sets up a task force to monitor and regulate the release of preproduction plastic pellets released into the marine environment. Signed by Governor Schwarzenegger.

CALIFORNIA ASSOCIATION OF ENVIRONMENTAL HEALTH ADMINISTRATORS
2 Year Bills Legislative Report: October 15, 2007

Bill	Summary	Latest Action
SOLID WASTE		
CA AB 501 Swanson (D) NEUTRAL 2 YEAR BILL	Pharmaceutical Devices Requires a pharmaceutical company whose product is dispensed through a prefilled syringe, prefilled pen needle, or other prefilled injection device to provide each person for whom the product is prescribed with a specified method for the patient to safely dispose of the syringe, pen needle, or other injection device.	<ul style="list-style-type: none"> • Held in ASM Committee on Health.
CA AB 656 Plescia (R) WATCH 2 YEAR BILL	Hazardous Waste: Alkaline Batteries Requires the Integrated Waste Management Board and the State Water Resources Control Board to jointly undertake a study and submit a report to the Legislature regarding whether there are any environmental impacts caused by the random disposal of used alkaline batteries in a permitted solid waste landfill facility.	<ul style="list-style-type: none"> • To ASM Committee on Environmental Safety and Toxic Materials.
CA AB 729 Mullin (D) SUPPORT 2 YEAR BILL	Recycling: E-Waste Requires the integrated Waste Management Board to adopt regulations for the proper and legal donation of covered electronic devices intended for reuse by a nonprofit organization including, but not limited to, the development of a form that may be used by an authorized collector when a covered electronic device is transferred by a person or company for refurbishing or reuse by a nonprofit organization.	<ul style="list-style-type: none"> • Held in ASM Natural Resources and ASM Environmental Safety and Toxic Materials Committees.
CA AB 1150 Lieu (D) NEUTRAL 2 YEAR BILL	Solid Waste: Transformation Relates to a transformation integrated waste management program. Defines transformation as the incineration of solid waste, or the processing of solid waste through a noncombustion thermal, chemical, or biological process.	<ul style="list-style-type: none"> • To ASM Committee on Natural Resources.
CA AB 1207 Smyth (R) OPPOSE 2 YEAR BILL	Solid Waste: Biosolids Relates to existing law that requires the State Water Resources Control Board to adopt minimum standards for solid waste facilities. Requires those minimum standards to include standards for the land application of biosolids which would include standards for the land application of biosolids according to sound principles of land use, agriculture, conservation, resource management, public health, and protection of ground water.	<ul style="list-style-type: none"> • Held in ASM Committees on Natural Resources and ASM Environmental Safety and Toxic Materials.
CA AB 1237 Hancock (D) NEUTRAL 2 YEAR BILL	Solid Waste: Solid Waste Facilities Relates to existing law which requires the Integrated Waste Management Board to either concur or object to the issuance or revision of a solid waste facility permit within 60 days from the board's receipt of a facility permit. Extends the time period in which the board may concur or object to 90 days. Eliminates the need for a public hearing prior to an enforcement action by the board.	<ul style="list-style-type: none"> • To ASM Committee on Natural Resources.
CA AB 1352 Berryhill (R) SUPPORT 2 YEAR BILL	Animal: Rendering States findings and declaration regarding the need for expanding disposal and recycling alternatives for mortalities of agriculture, and wild and companion animals that have died because of natural or other causes. Requires the Department of Food and Agriculture to conduct a study of the current status of animal mortality disposal and recycling alternatives.	<ul style="list-style-type: none"> • In ASM Committee on Local Government.
CA AB 1535 Huffman (D) SUPPORT 2 YEAR BILL	Electronic Waste: Personal Computers Relates to the Electronic Waste Recycling Act of 2003, to include a personal computer. Provides that a retailer would be required to collect a fee from the consumer at the time of the retail sale of a personal computer.	<ul style="list-style-type: none"> • Held in ASM Committee on Appropriations.

**CALIFORNIA ASSOCIATION OF ENVIRONMENTAL HEALTH ADMINISTRATORS
2007 CHAPTERED BILLS**

Bill	Summary	Latest Action
SOLID WASTE		
CA AB 468 Ruskin (D) NEUTRAL	Vehicles: Abatement of Abandoned Vehicles Authorizes a county service authority to use registration fees as well as the moneys received from the Abandoned Vehicle Trust Fund for the costs associated with the enforcement of the ordinance adopted by the authority. Prohibits the authority from offsetting other specified costs and from carrying out an abandoned vehicle abatement unless a specified notice is issued and the notice period has expired. Authorizes the authority to carryout such abatement under certain conditions. Relates to a fiscal report.	• CHAPTER 389
CA AB 679 Benoit (R) NEUTRAL	Illegal Dumping: Assessments Requires the court to impose a infraction or misdemeanor fine on violators for illegal dumping in addition to any other penalty or fine. Requires that the money from the fines be deposited in the city's or county's general fund for use for illegal dumping enforcement.	• CHAPTER 394
CA AB 1048 Richardson (D) SUPPORT	Illegal Dumping Enforcement Officers Corrects an erroneous cross-reference and provide that illegal dumping enforcement officers, shall be among those persons who enforce provisions of law relating to solid waste disposal. Provides that the Attorney General may furnish illegal dumping enforcement officers state summary criminal history information upon the showing of a compelling need. Requires the Attorney General to provide criminal history information to city attorneys pursuing civil gang injunctions, or drug abatement actions.	• CHAPTER 201
CA AB 1473 Feuer (D) NEUTRAL	Solid Waste Facility: Temporary Permits Requires the State Integrated Waste Management Board to adopt emergency regulations authorizing a local enforcement agency to issue a temporary solid waste facilities permit to a person operating a solid waste transfer or processing station or a composting facility. Provides the application process for the permit. Requires the local agency to notify the operators of such license availability.	• CHAPTER 547

**CALIFORNIA ASSOCIATION OF ENVIRONMENTAL HEALTH ADMINISTRATORS
2007 VETOED BILLS**

Bill	Summary	Latest Action
SOLID WASTE		
CA AB 546 Brownley (D) NEUTRAL	Electronic Waste Relates to the Electronic Waste Recycling Act of 2003 that requires each manufacturer of a covered electronic device to make information available to consumers. Requires a retailer to provide a customer with specified information regarding such device, including the Integrated Waste Management Board's Web site and to provide this information with the sales receipt. Requires the manufacturer to provide such information and other information in the instruction manual, and in the final product packaging.	• VETOED
CA AB 548 Levine (D) NEUTRAL	Solid Waste: Multifamily Dwellings Requires an owner of a defined multifamily dwelling to arrange for recycling services that are appropriate for the multifamily dwelling, consistent with statutory provisions regarding development projects and any other applicable state or local law or requirement applicable to the collection, handling, or recycling of solid waste.	• VETOED