



**Bay Area Hazardous Waste Management Facility Allocation Committee**

Administered by:

**Association of Bay Area Governments**

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Date: November 16, 2012

To: Hazardous Waste Management Facility Allocation Committee

From: Ceil Scandone, Senior Regional Planner

Re: Extended Producer Responsibility – Legislative Update and Other Initiatives

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**Overview**

When the Committee was founded over two decades ago, the focus was on wastes which are shipped offsite by industrial generators, at the generators' expense, to hazardous waste management facilities for processing and disposal. Since 2006, when California designated commonly-used consumer products such as computers, batteries, mercury thermometers and fluorescent lights as universal or U- wastes that are banned from landfills and require special handling, the Committee has been tracking relevant legislation and taking action to address this important high-volume waste stream.

Local governments bear the responsibility for proper management of U-wastes and other household hazardous wastes such as paints and pesticides. Because of growing concerns about the environmental and health effects of prescription and non-prescription drug residues in waterways, it is likely those will also be banned from landfill disposal. The costs to collect and dispose of these products are considerable.

In response to the financial burden and with concern about the environmental effects that may occur when consumers do not dispose of these items properly, in 2007 a coalition of local governments formed the California Product Stewardship Council (CPSC), a non-profit, 501(c)3 organization, to promote Extended Producer Responsibility (EPR) for products that end up in the waste stream. CPSC describes its mission as follows: To shift California's product waste management system from one focused on government funded and ratepayer financed waste diversion to one that relies on producer responsibility in order to reduce public costs and drive improvements in product design.

Over the past few years, a number of EPR bills were introduced in Sacramento. Legislation enacting product stewardship for mercury thermostats (2008), and for architectural paints and carpets (2010) passed. Bills to address fluorescent lights and batteries (2012), and a more comprehensive product stewardship act based on the CalRecycle EPR framework (2010) were unsuccessful.

In reviewing state legislation since 2008, it is evident that fewer bills were introduced and/or moved forward in 2012, and that is not expected to change in 2013. On the other hand, significant local actions were taken, notably the Alameda County Safe Drug Disposal Ordinance.

At the meeting on November 16<sup>th</sup>, Heidi Sanborn, Executive Director of the California Product Stewardship Council, will provide an update on the EPR landscape. Ms. Sanborn will describe CPSC's work, identify the successes at state and local levels, discuss progress in implementation of product stewardship for paints and other products, share CPSC's strategy for the future, including actions local and regional agencies can consider to move things forward. Heidi recently said that local actions may provide the catalyst needed to bring industry stakeholders to the table to seek statewide solutions.

This memo summarizes recent activity, and suggests actions the Committee might take to advance product stewardship in the Bay Area and the state.

### **2012 Legislation:**

The Committee was charged with reviewing Extended Producer Responsibility (EPR) and other relevant legislation and forwarding recommended positions to ABAG's Legislation and Governmental Organizations Committee and ultimately to ABAG's Executive Board. Staff works with the California Product Stewardship Council and Technical Advisory Committee members to identify bills for Committee consideration.

One new bill germane to the Committee's mission was introduced in 2012: ***AB 1442, Wieckowski, Unwanted Pharmaceuticals Reverse Distribution***. At the May 2012 meeting, the Committee voted to support AB 1442. The legislation was successful. It redefines pharmaceutical waste under the Medical Waste Management Act and allows common carrier transport (instead of costly medical waste haulers) of pharmaceutical waste. This change will make it easier to recover unwanted pharmaceuticals from the public by reducing the cost of transport and bring California one step closer to EPR.

The following bills, which were introduced in 2011 and supported by the Committee, were turned into two year bills. All died in 2012.

SB 419, Senator Simitian's Home – Generated Sharps bill.

SB 589, Senator Lowenthal's Mercury Lamp Stewardship bill.

SB 515, Senator Corbett's Battery bill.

Looking forward to the next session, staff will monitor the CPSC website, consult with TAC members, and report at the next meeting on any relevant bills introduced in 2013.

### **Other Initiatives**

Staff also follows implementation of previously enacted legislation and local initiatives, as we seek opportunities to support and advance product stewardship. Three such initiatives are described below and will be discussed at the meeting.

#### ***Alameda County Safe Drug Disposal Ordinance:***

At the May meeting, Technical Advisory Committee member Bill Pollock made a presentation on the proposed Alameda County Safe Drug Disposal Ordinance. The

ordinance, which was approved by the Board of Supervisors in July, requires any person who produces a drug for sale in Alameda County to participate in an approved drug stewardship program for the collection and disposal of unwanted drugs from residential sources.

The ordinance is the first in the nation to make pharmaceutical manufacturers take responsibility for the entire lifespan of their products. The goal is to reduce teenage prescription drug abuse, expand local medication collection sites in the county and prevent discarded drugs from entering our waterways and landfills.

Ms. Sanborn and Mr. Pollock have been asked to discuss the ordinance and its significance both locally and statewide. A copy of the adopted ordinance is attached.

### ***Battery Recycling***

At the January 2012 meeting, Rob D'Arcy reported that U.S. manufacturers of non-rechargeable alkaline household batteries had established the Corporation for Battery Recycling (CBR), a not-for-profit corporation established to aid in the development of a stewardship program they intend to launch in 2013. The companies involved produce the Duracell, Energizer, Kodak, Panasonic and Spectrum brands. They are working with six foundation programs – including Santa Clara County and San Luis Obispo Counties in California – to gather data that will aid in program development.

In July, CBR issued an open Request for Proposal (RFP) from qualified and experienced organization(s) to act as the 'Stewardship Organization (SO)' responsible for managing and delivering an environmentally positive and cost effective national program for recycling primary household batteries. to manage and service the national recycling program. Mr. D'Arcy will provide an update on the status of this effort.

For more information about CBR, see their home page: <http://recyclebattery.org/>

### ***Paint Stewardship***

In 2010, California passed AB1343 creating the first permanent paint stewardship program in the United States. This was a very significant step. According to a technical report published in 2004 by the Product Stewardship Initiative, paint represents 40-60%, by volume, of all Household Hazardous Waste collected at public facilities. Paint management at public facilities in California is estimated to cost \$20 million each year.

The legislation required that on or before April 1, 2012, a manufacturer or designated stewardship organization shall submit an architectural paint stewardship plan to CalRecycle. It defines a "stewardship organization" as a nonprofit organization created by the manufacturers to implement the architectural paint stewardship program.

PaintCare® Inc. ("PaintCare") was formed to serve as the architectural paint industry's stewardship organization and to fulfill the obligations of participating manufacturers under the California Paint Stewardship Law. In July 2012, CalRecycle approved the

California Architectural Paint Program Stewardship Plan submitted by PaintCare. The plan is available at <http://www.calrecycle.ca.gov/EPR/PolicyLaw/PntCare0604.pdf>. The PaintCare website at <http://www.paintcare.org/california/index.php> has links to fact sheets for consumers, retailers, manufacturers and municipal paint management programs with details about the California program.

CPSC was involved in the effort to enact and is helping to implement the paint stewardship legislation. Ms. Sanborn will share perspectives and answer questions.

### **Conclusion**

The product stewardship campaign has had many notable successes thanks to the efforts of CPSC, committed legislators, local agency officials and staff, and other stakeholders. However there has been significant resistance on the part of some industries. The comprehensive product stewardship act, and bills to address single products have failed. New approaches and wider support are needed to continue the progress. Staff is therefore requesting that the Committee consider the following actions

### **Actions Requested:**

1. Forward a request to ABAG Executive Director that Heidi Sanborn, Executive Director, CPSC, be invited to address the Executive Board on Extended Producer Responsibility.
2. If a presentation is scheduled, include in the staff report a request that the Executive Board approve sending a letter, signed by ABAG's President and Chair of the Hazardous Waste Management Committee, to all Bay Area cities and counties recommending the following actions:
  - a. Adopt an Extended Producer Responsibility resolution or legislative policy, if they have not already done so.
  - b. Support the work and consider joining the California Product Stewardship Council.
  - c. Develop a countywide or model local take-back ordinance for producers and/or retailers of the following products: paint, sharps, fluorescent lamps, pharmaceuticals, treated wood and non-rechargeable batteries.