Bay Area Hazardous Waste Management Facility Allocation Committee

administered by

Association of Bay Area Governments

November 16, 2012
12:30 p.m. to 2:30 p.m.
Conference Room B – MetroCenter

Agenda

12:30	**Introductions / Announcements / Approve Agenda**	Action
12:40	**Adopt minutes of May 25, 2012 meeting**	Action *(Attachment A)*
12:45	**Extended Producer Responsibility** ***Legislation:*** **Scandone** will report on 2012 state legislation. ***Other EPR initiatives***: **Heidi Sanborn**, Executive Director of the California Product Stewardship Council, will report on the Council's work, including legislative advocacy, implementation support for the paint stewardship program, the Alameda County Safe Drug Disposal ordinance and strategic initiatives for 2012 and beyond. **Rob D'Arcy** will report on the battery and paint stewardship programs.	Information/Action *(Attachment B)*
1:45	**Green Business Program** ***Scandone*** will report on post-AB 913 efforts to gain secure financial support for the statewide database and other activities related to establishing the statewide program.	Information *(Attachment C)*
2:00	**Budget and Work Plan** ***Scandone*** will present progress on various projects and seek approval for modifications to the adopted Budget and Work plan. Proposed revisions are highlighted in yellow on Attachment D.	Information/Action *(Attachment D)*
2:15	**Other Business / Set Next Meeting**	Information/Action
2:30	**Adjourn**	

Attachment A

Bay Area Hazardous Waste Management Facility Allocation Committee
Draft Minutes of the May 25, 2012 Meeting

Attendance:

Members	**Alternates**
Mark Luce	Debra Kaufman
Mark Green	Chris Shoop
Ronit Bryant	
Steve Devine	
Karen Mitchoff	
Andy Parsons	
Tiffany Reneé	

Technical Advisory Committee/Staff:
Paris Greenlee
Jennifer Krebs
Bill Pollock
Ceil Scandone
Lisa Steinman, Sonoma Co. Waste Mgmt. (by phone)

Call to Order/Introductions: Chair Mark Luce called the meeting to order at 10:06 a.m. He welcomed attendees and initiated introductions.

Adoption of Minutes: Karen Mitchoff moved, Tiffany Renee seconded and the minutes of the January 27, 2012 meeting were unanimously approved.

Extended Producer Responsibility

State Legislation: Ceil Scandone explained that the Hazardous Waste Management Committee reviews and forwards positions on relevant bills to ABAG's Legislation and Governmental Organizations committee. This year only one new bill was deemed germane to committee's mission – AB 1442, Wieckowski. Three two-year bills, which the Committee supported last year - SB 419, Simitian (sharps); SB 589, Lowenthal (mercury lamps); and SB 515 Corbett (batteries) are either inactive or died.

AB 1442 would amend current regulations to redefine pharmaceutical waste under the Medical Waste Management Act and allow healthcare facilities, which can receive pharmaceutical drugs via standard common carrier, to ship expired and non-dispensable pharmaceutical waste by common carriers (instead of costly medical waste haulers). This change will ultimately make it easier to recover unwanted pharmaceuticals from the public by reducing the cost of transport and bring California one step closer to EPR.

In response to Green's query about why the law was set up as it was, Pollock confirmed that it was because packages may be open. Luce asked if there were security issues. Pollock responded that there are, but they can be addressed.

Alameda County Drug Disposal Ordinance: Bill Pollock showed the presentation "Medication Disposal in Alameda County and the Safe Medication Disposal Ordinance" (attached). If adopted, the ordinance would require 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 would address the following objectives: reducing teenage prescription drug abuse, expanding local medication collection sites in the county and preventing discarded drugs from entering waterways and landfills. Pollock expects the ordinance will be voted on at a Board meeting in July.

The proposed ordinance is based upon the California paint bill, a San Francisco draft pharmaceutical ordinance, and the British Columbia pharmaceutical ordinance. In response to Green's question about Police and Fire station drop off sites, Pollock noted that those are voluntary sites, and fire station personnel are not on location all the time. Mitchoff asked how companies selling drugs in the county will know about the requirement. Pollock responded that the big pharmaceutical companies are already aware – they sent representatives to the meetings.

Scandone stated that ABAG doesn't take action on local ordinances. Bill's presentation was intended to provide more info on AB 1442. Mitchoff recommended that information on the Alameda County ordinance be sent to the California State Association of Counties.

Mark Luce requested a recommendation for action on AB 1442. Mitchoff made a motion to support, Parsons seconded, and the motion was unanimously approved.

Battery Recycling: Scandone noted that at the last meeting Rob D'Arcy spoke about the Corporation for Battery Recycling (CBR), a not-for-profit corporation established by major battery manufacturers to aid in the development of a stewardship program they intend to launch in 2013. battery take-back. Since he was unable to attend the meeting, he will describe progress at the next meeting. Bryant indicated that it would be interesting to see an analysis of why certain industries support and others oppose product stewardship. Scandone suggested that Heidi Sanborn of the California Produc Stewardship Council be invited to discuss this.

Sustainable Purchasing: Scandone provided a brief recap of the Committee's efforts, which were initiated to support and complement the state's Green Chemistry intiatives. A workgroup was established to plan and offer 3 workshops. The first, in 2009, focused on why to implement sustainable purchasing and attracted 120 attendees. The second, in 2010, focused on how to initiate sustainable purchasing and had 60 registrants. The third, in 2011, featured sustainable practices to save time and money and drew 50 people.

It has been suggested that local staff don't have the time or funding to attend workshops. Scandone and Krebs consulted with consultant Alicia Culver who thought it might be more productive to monitor subregional efforts getting underway around the region. Conversations with staff in Alameda, Santa Clara and other counties suggest that in the next several months

there will be interesting information to share about local efforts to implement sustainable purchasing practices. Staff recommends tracking a number of county/ city sustainable purchasing initiatives and developing brief case studies to present to the Committee and post on the Committee website. In response to inquiries from Mitchoff and Devine, Scandone welcomed contact information for relevant staff in Committee member's jurisdictions.

Green Business Program Update: Scandone presented the newly created Property Manager checklist and updated Policy Guide, for which the Program is seeking Committee approval. The checklist will address two needs: provide property managers with a checklist that recognizes their control over all building operations, service contracts and capital expenditures; and provide opportunities for tenant businesses in those buildings to be certified. Currently, many small businesses in leased spaces have difficulty because the property manager/owner won't change lights or other fixtures to meet Green Business standards.

The checklist requires that the property manager meet Green Business standards at their own offices, and also for at least one managed property. Green building practices have been incorporated, addressing tenant improvements; cleaning, landscaping and pest control contracts; recycling; lighting and HVAC systems; and restroom fixtures. With Committee approval, the checklist will be pilot tested.

The changes to the Program Policy Guide, including revision of Appendix A and addition of Appendix D, articulate a flexible process that can fairly evaluate the operations and practices of very large urban high-rise buildings with on-site staff; those of managers with portfolios of smaller buildings without on-site staff; and those of managers with multi-building/multi-tenant campuses.

Reneé noted she can see comprehensiveness and relationship to Build it Green. Bryant asked about suburban office parks, and whether the Program assumes if you check one building the others will work as well. Scandone responded that at initial certification 30% of the buildings businesses/offices must meet standards for measures that might require capital expenditures, such as installing energy conserving lighting, water conserving restroom fixtures. For service contracts, other operations measures, 100% of buildings would need to comply. The capital improvements have to be at 60% of the buildings by first recertification. Coordinators or their partners would conduct site verifications to ensure the percentages are met.

Bryant asked if the checklist could be used for residential managers. Scandone replied that in Alameda County, the coordinator works with non-profit housing. Affordable housing typically has onsite management and commitment to green building operations for landscape, pest control, etc. Apartment complexes can be particularly challenging since you don't have control over individual tenants' practices.

Reneé suggested the Program consider tiering to deal with investment cost of getting to 100% of commercial properties meeting the standards. The business is on the way and can use that in marketing. Only call the business Green, when it meets all standards.

Green moved approval of the checklist and revised policy guide, Bryant seconded, and the motion passed unanimously.

In other Green Business news, Scandone reported that Matt McCarron, the primary Cal EPA contact, has reported good engagement with other Cal EPA agencies and departments on the statewide expansion of program, however no firm commitments yet. A scaling plan for green business program expansion around the state is being developed. The team believes that at some point we will need a statewide coordinator and is considering how to fund that position and also maintenance of the online measurement and management database. Scandone has discussed with ABAG Attorney Moy development of a Memorandum of Understanding or other way of legally binding members.

Budget and Workplan: On the revenue side, Scandone noted that staff does not recommend a fee increase for 2012/13. While the BAAQMD did not make a contribution to the Green Business Program for 2011/12, they are expected to contribute $10,000 for coming fiscal year. Rather than using the BAAQMD contribution for marketing expenses, this year ABAG will contribute those funds to help support the state Green Business Program database. That will offset if not eliminate, requests to individual Bay Area counties who have been asked to contribute to the maintenance of this essential system.

In 2012/13, on the Hazardous Waste side, staff intends to initiate the project approved by the Committee in January 2012 to research potential to site U-Waste processor(s) in Bay; monitor and report on sustainable purchasing efforts in Bay Area jurisdictions; and track Extended Producer Responsibility initiatives. Green Business Program activities will include participating in efforts to find funding for maintenance of the statewide database and develop a governance model for the statewide program. We will work with regional partners such as PG & E to bring in more program resources.

Green moved approval, Mitchoff seconded and the budget and work plan was approved unanimously.

Next Meeting: The next meeting was set for November 16, 2012 from 12:30 p.m. to 2:30 p.m.

Attachment B

Bay Area Hazardous Waste Management Facility Allocation Committee

Administered by:
Association of Bay Area Governments

101 Eighth Street, Oakland, CA 94607-4756 P. O. Box 2050, Oakland, CA 94604-2050
http://www.abag.ca.gov/hazwaste 510/464-7961

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

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 16th, 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.

ORDINANCE NO. O-2012-27

ORDINANCE AMENDING THE ALAMEDA COUNTY ORDINANCE CODE BY ADDING CHAPTER 6.53, SECTIONS 6.53.010 THROUGH 6.53.120 TO: REQUIRE ANY PERSON WHO PRODUCES A DRUG OFFERED FOR SALE IN ALAMEDA COUNTY TO PARTICIPATE IN AN APPROVED DRUG STEWARDSHIP PROGRAM FOR THE COLLECTION AND DISPOSAL OF UNWANTED DRUGS FROM RESIDENTIAL SOURCES; PROVIDE FOR IMPLEMENTATION, ENFORCEMENT, FEES, AND PENALTIES; AND MAKING ENVIRONMENTAL FINDINGS.

WHEREAS, the County of Alameda has a substantial interest in, and a substantial need for, a drug stewardship program; and

WHEREAS, the health and welfare of the residents of the County of Alameda, particularly children and the elderly, would be improved and advanced by the proper disposal of unwanted, expired or unneeded prescription drugs;

NOW THEREFORE, the Board of Supervisors of the County of Alameda ordains as follows:

Title 6 of the Alameda County Health and Safety Code is hereby amended by adding Chapter 6.53, Sections 6.53.010 through 6.53.120, to read as follows:

6.53.010 - Declaration of findings.

The Board of Supervisors hereby finds and declares the following:

A. Prescription Drugs are a necessary medical technology that successfully allows us to live longer, healthier, and more productive lives;

B. The public, particularly children and the elderly, are at significant and unnecessary risk of poisoning due to improper or careless disposal of prescription drugs and the illegal re-sale of prescription drugs;

C. Our groundwater and drinking water are being contaminated by unwanted, leftover or expired prescription drugs passing through our wastewater and treatment centers;

D. There is no mandatory statewide drug stewardship program for unwanted drugs in California, and drug manufacturers and producers have not offered any support for a permanent collection program to date.

Section 6.53.020 - Title

This Chapter may be cited as the "Alameda County Safe Drug Disposal Ordinance."

Section 6.53.030 - Definitions.

For the purposes of this Chapter, the following terms have the meanings given.

1. "Controlled Substance" for purposes of this Section shall mean any substance listed under California Health and Safety Code Sections 11053 through 11058 or Title 21 of the United States Code, Sections 812 and 813 or any successor legislation.

2. "Cosmetics" means (i) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to, the human body, or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, (ii) articles intended for use as a component of any such articles, and (iii) cosmetics as defined above with expiration dates.

3. "Covered Drug" means all drugs as defined in 21 U.S.C. § 321(g)(1) of the Federal Food, Drug and Cosmetic Act (FFDCA) covered under 21 U.S.C. § 353(b)(1) of the FFDCA, including both brand name and Generic Drugs.

   "Covered Drug" does not include: (i) Vitamins or supplements; (ii) Herbal-based remedies and homeopathic drugs, products, or remedies; (iii) Cosmetics, soap (with or without germicidal agents), laundry detergent, bleach, household cleaning products, shampoos, sunscreens, toothpaste, lip balm, antiperspirants, or other personal care products that are regulated as both cosmetics and Nonprescription Drugs under the Federal Food, Drug, and Cosmetic Act ("FFDCA") (21 U.S.C. Sec. 301 et seq. (2002)); (iv) Drugs for which Producers provide a take-back program as part of a Federal Food and Drug Administration managed risk evaluation and mitigation strategy (21 U.S.C. Sec. 355-1); (v) Drugs that are biological products as defined by 21 C.F.R. 600.3(h) as it exists on the effective date of this Section if the Producer already provides a take-back program; (vi) Pet pesticide products contained in pet collars, powders, shampoos, topical applications, or other delivery systems; and (vii) nonprescription drugs.

4. "Department" means the Alameda County Department of Environmental Health.

5. "Drug Wholesaler" means a business that sells or distributes drugs and Covered Drugs for resale to an Entity other than a consumer.

6. "Drugs" means: (i) articles recognized in the official United States pharmacopoeia, the official national formulary, the official homeopathic pharmacopoeia of the United States, or any supplement of the formulary or those pharmacopoeias; (ii) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals; (iii) substances, other than food, intended to affect the structure or any function of the body of humans or other animals.

   "Drugs" does not mean medical devices, their component parts or accessories, or a Covered Drug contained in or on medical devices or their component parts or accessories.

7. "Entity" means a person other than an individual.

8. "Generic Drug" means a drug that is chemically identical or bioequivalent to a brand name drug in dosage form, safety, strength, route of administration, quality, performance characteristics, and intended use, though inactive ingredients may vary.

9. "Mail-Back Program" means a system whereby Residential Generators of Unwanted Products obtain prepaid and preaddressed mailing envelopes in which to place Unwanted Products for shipment to an Entity that will dispose of them safely and legally.

10. "Nonprescription Drug" means any drug that may be lawfully sold without a prescription.

11. "Person" means an individual, firm, sole proprietorship, corporation, limited liability corporation, general partnership, limited partnership, limited liability partnership, association, cooperative, or other legal Entity, however organized.

12. "Plan" or "Product Stewardship Plan" means a product stewardship plan required under this Chapter that describes the manner in which a Product Stewardship Program will be provided.

13. "Prescription Drug" means any drug that by federal or state law may be dispensed lawfully only on prescription.

14. "Producer" shall be determined, with regard to a Covered Drug that is sold, offered for sale, or distributed in Alameda County as meaning one of the following:

    (i) The Person who manufactures a Covered Drug and who sells, offers for sale, or distributes that a Covered Drug in Alameda County under that Person's own name or brand.
    (ii) If there is no Person who sells, offers for sale, or distributes the Covered Drug in Alameda County under the Person's own name or brand, the producer of the Covered Drug is the owner or licensee of a trademark or brand under which the Covered Drug is sold or distributed in Alameda County, whether or not the trademark is registered.
    (iii) If there is no Person who is a producer of the Covered Drug for purposes of paragraphs (i) and (ii), the producer of that Covered Drug is the Person who brings the Covered Drug into Alameda County for sale or distribution.

    "Producer" does not include (i) a retailer that puts its store label on a Covered Drug or (ii) a pharmacist who dispenses Prescription Drugs to, or compounds a prescribed individual drug product for a consumer.

15. "Product Stewardship Program" or "Program" means a program financed and operated by Producers to collect, transport, and dispose of Unwanted Products.

16. "Residential Generators" means single and multiple family residences and locations where household drugs are unused, unwanted, disposed of, or abandoned. "Residential Generators" do not include airport security, drug seizures by law enforcement, pharmacy waste, business waste, or any other source identified by the Department as a nonresidential source.

17. "Stewardship Organization" means an organization designated by a group of Producers to act as an agent on behalf of each Producer to operate a Product Stewardship Program.

18. "Unwanted Product" means any Covered Drug no longer wanted by its owner or that has been abandoned, discarded, or is intended to be discarded by its owner.

Section 6.53.040. - Product Stewardship Program.

A. Requirement for sale. This Chapter shall apply only to a Producer whose Covered Drug is sold or distributed in Alameda County. This Chapter shall apply to all of Alameda County including unincorporated and incorporated areas, except for those incorporated areas (cities) where the governing body of that incorporated area (city) has authorized its own local health officer or environmental health director to administer and enforce the provisions of California Health and Safety Code section 117800. This Chapter shall be administered and implemented by the Alameda County Department of Environmental Health. Each Producer must:

1. Operate, individually or jointly with other Producers, a Product Stewardship Program approved by the Department; or

2. Enter into an agreement with a Stewardship Organization to operate, on the Producer's behalf, a Product stewardship Program approved by the Department.

B. Product Stewardship Program costs.

1. A Producer, group of Producers, or Stewardship Organization must pay all administrative and operational fees associated with their Product Stewardship Program, including the cost of collecting, transporting, and disposing of Unwanted Products collected from Residential Generators and the recycling or disposal, or both, of packaging collected with the Unwanted Product.

2. A Producer, group of Producers, or Stewardship Organization must pay for all fees associated with obtaining compliance with the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.), if required, for a specific Product Stewardship Program and product stewardship Plan.

3. No Person or Producer may charge a specific point-of-sale fee to consumers to recoup the costs of their Product Stewardship Program, nor may they charge a specific point-of-collection fee at the time the Unwanted Products are collected from Residential Generators or delivered for disposal.

4. A Producer, group of Producers, or Stewardship Organization must pay all costs incurred by the County of Alameda, including but not limited to the Department, in the administration and enforcement of their Product Stewardship Program. Exclusive of fines and penalties, the County of Alameda shall only recover its actual costs of administration and enforcement under this Ordinance and shall

not charge any amounts under this Ordinance in excess of its actual administrative and enforcement costs.

6.53.050 - Product stewardship plan.

A. Plan content. Each Product Stewardship Program shall have a product stewardship Plan that contains each of the following:

1. Certification that the Product Stewardship Program will accept all Unwanted Products regardless of who produced them, unless excused from this requirement by the Department as part of the approval of the Plan;

2. Contact information for the individual and the Entity submitting the Plan and for each of the Producers participating in the Product Stewardship Program;

3. A description of the methods by which Unwanted Products from Residential Generators will be collected in Alameda County and an explanation of how the collection system will be convenient and adequate to serve the needs of Alameda County residents;

4. A description of how the product stewardship Plan will provide collection services for Unwanted Products in all areas of Alameda County that are convenient to the public and adequate to meet the needs of the population in the area being served.

5. The location of each collection site and locations where envelopes for a Mail-Back Program are available (if applicable);

6. A list containing the name, location, permit status, and record of any penalties, violations, or regulatory orders received in the previous five years by each Person that will be involved in transporting Unwanted Products and each medical waste or hazardous disposal facility proposed to participate in the Product Stewardship Program;

7. A description of how the Unwanted Products will be safely and securely tracked and handled from collection through final disposal and the policies and procedures to be followed to ensure security;

8. A description of the public education and outreach activities required under this Chapter and how their effectiveness will be evaluated;

9. A description of how the scope and extent of the Product Stewardship Program are reasonably related to the amount of Covered Drugs that are sold in the County of Alameda. by the Producer or group of Producers;

10. A starting date when collection of Unwanted Products will begin;

11. A description of how support will be provided to any law enforcement agencies within Alameda County that have, or later agree to have, a collection program for Controlled substances, including: (i) the provision of a collection kiosk with appropriate accessories and signage, (ii) an ability to accept Controlled Substances and other Covered Drugs, (iii) technical support up to and including an appropriate Person to provide on-site assistance with the sorting and separation of Controlled Substances at no cost to a participating law enforcement agency. Otherwise, Controlled Substances are expressly excluded from this Chapter notwithstanding any other provision contained herein;

12. A description of how collection sites for Unwanted Products may be placed at appropriate retail stores in Alameda County including a description of the involvement of the retail store. Retailers are not required or mandated to host collection sites and nothing in this Ordinance shall be interpreted as requiring such participation; and

13. If more than one Producer will be involved in a proposed Product Stewardship Program, then the product stewardship Plan for that Program must include a fair and reasonable manner for allocating the costs of the Program among the participants in that Program, such that the portion of costs paid by each Producer is reasonably related to the amount of Covered Drugs that Producer sells in the County of Alameda.

B. Department review and approval; updates.

1. No Producer, group of Producers, or Stewardship Organization may begin collecting Unwanted Products to comply with this Ordinance until it has received written approval of its product stewardship Plan from the Department.

2. Product stewardship Plans must be submitted to the Department for approval. The initial Plans must be submitted by July 1, 2013, or at a later date as approved in writing by the Department.

3. Within 180 days after receipt and review of a product stewardship Plan, the Department shall conduct a noticed public hearing and

determine whether the Plan complies with the requirements of this Chapter and of any regulations adopted pursuant to this Chapter.

a) As part of its approval, the Department may set reasonable performance goals for the Program.
b) If the Department approves a Plan, it shall notify the applicant of its approval in writing.
c) If the Department rejects a Plan, it shall notify the applicant in writing of its reasons for rejecting the Plan. The Department may reject a Plan without conducting a public hearing.
d) An applicant whose Plan has been rejected by the Department must submit a revised Plan to the Department within 60 days after receiving notice of the rejection. The Department may require the submission of a further revised Plan or, in its sole discretion, the Department may develop, approve and impose its own product stewardship Plan or an approved Plan submitted by other Producer(s) pursuant to this Ordinance. The imposed Plan will be presented at the public hearing. The Department is not required, and nothing in this Ordinance shall be interpreted as requiring, the Department to create or impose a product stewardship Plan.
e) If the Department rejects a revised Product Stewardship Plan or any other subsequently revised Plan, the Producer(s) at issue shall be out of compliance with this Chapter and are subject to the enforcement provisions contained in this Chapter. If the Department imposes its own or another Plan the Producer(s) at issue shall not be considered out of compliance with this Chapter if they comply with that Plan. However, the Producers shall be subject to the enforcement provisions contained in this Chapter as they relate to compliance with an approved Plan.

4. At least every three years, a Producer, group of Producers or Stewardship Organization operating a Product Stewardship Program shall update its product stewardship Plan and submit the updated Plan to the Department for review and approval.

5. A Producer who begins to offer a Covered Drug for sale in the County of Alameda after July 1, 2013, must submit a product stewardship Plan to the Department or provide evidence of having joined an existing approved Product Stewardship Program within 180 days following the Producer's initial offer for sale of a Covered Drug.

6. Any proposed changes to a product stewardship Plan must be submitted in writing to the Department and approved by the Department in writing prior to implementation of any change.

6.53.060 - Disposal of Unwanted Products.

A. Compliance with applicable law. Each Product Stewardship Program must comply with all local, state, and federal laws and regulations applicable to its operations, including laws and regulations governing the disposal of medical waste and Controlled Substances.

B. Disposal at medical waste or hazardous waste facility. Each Product Stewardship Program must dispose of all Unwanted Products by incineration at a medical waste or hazardous waste facility. The medical waste or hazardous waste facility must be in possession of all required regulatory permits and licenses.

C. Producers with Product Stewardship Programs may petition the Department for approval to use final disposal technologies, where lawful, that provide superior environmental and human health protection than provided by current medical waste disposal technologies for Covered Drugs if and when those technologies are proven and available. The proposed technology must provide equivalent protection in each, and superior protection in one or more, of the following areas:

1. Monitoring of any emissions or waste;

2. Worker health and safety;

3. Air, water, or land emissions contributing to persistent, bioaccumulative, and toxic pollution; and,

4. Overall impact on the environment and human health.

D. Packaging separation. Each Product Stewardship Program shall encourage Residential Generators to separate Unwanted Products from their original containers, when appropriate, prior to collection or disposal.

6.53.070 - Product Stewardship Program promotion and outreach.

A. A Product Stewardship Program must promote the Product Stewardship Program to Residential Generators, pharmacists, retailers of Covered Drugs, and health care practitioners as to the proper and safe method to dispose of Unwanted Products.

B. A Product Stewardship Program shall include, but is not limited to, developing, and updating as necessary, educational and other outreach materials aimed at retailers of Covered Drugs. These materials may include, but are not limited to, one or more of the following:

1. Signage that is prominently displayed and easily visible to the consumer.

2. Written materials and templates of materials for reproduction by retailers to be provided to the consumer at the time of purchase or delivery, or both.

3. Advertising and/or other promotional materials related to the Product Stewardship Program.

C. A Product Stewardship Program must prepare education and outreach materials that publicize the location and operation of collection locations in Alameda County and disseminate the materials to health care facilities, pharmacies, and other interested parties. The Program also must establish a website publicizing collection locations and Program operations and a toll-free telephone number that Residential Generators can call to find nearby collection locations and understand how the Program works.

6.53.080 - Report.

A. On or before July 1, 2014 (or at a later date as approved in writing by the Department) and in each subsequent year, every Producer, group of Producers, or Stewardship Organization operating a Product Stewardship Program must prepare and submit to the Department an annual written report describing the Program's activities during the previous reporting period. The report must include the following:

1. A list of Producers participating in the Product Stewardship Program;

2. The amount, by weight, of Unwanted Products collected from Residential Generators collected at each drop-off site and in the entire County of Alameda and , if applicable, the total amount by weight collected by a Mail-Back Program;

3. A description of the collection system, including the location of each collection site and , if applicable, locations where envelopes for a Mail-Back Program are provided;

4. The name and location of disposal facilities at which Unwanted Products were disposed of and the weight of Unwanted Products collected from Residential Generators disposed of at each facility;

5. Whether policies and procedures for collecting, transporting, and disposing of Unwanted Products, as established in the Plan, were followed during the reporting period and a description of any noncompliance;

6. Whether any safety or security problems occurred during collection, transportation, or disposal of Unwanted Products during the reporting period and, if so, what changes have or will be made to policies, procedures, or tracking mechanisms to alleviate the problem and to improve safety and security;

7. A description of public education and outreach activities implemented during the reporting period, including the methodology used to evaluate the outreach and Program activities;

8. How the Product Stewardship Program complied with all other elements in the product stewardship Plan approved by the Department, including its degree of success in meeting any performance goals set by the Department as part of its approval of the Program; and

9. Any other information that the Department may reasonably require.

B. For the purposes of this section, "reporting period" means the period beginning January 1 and ending December 31 of the same calendar year.

6.53.090. – List of Producers. The Department shall provide on its website a list of all Producers participating in Product Stewardship Programs approved by the Department and a list of all Producers the Department has identified as noncompliant with this Chapter or any regulations adopted pursuant to this Chapter.

6.53.100. - Regulations and fees.

A. The Director of the Department of Environmental Health may, after a noticed public hearing, adopt such rules and regulations as necessary to implement, administer, and enforce this Chapter.

B. As soon as practicable, the Department shall submit to the Board of Supervisors a proposed schedule of fees to be charged to the Producers to cover Alameda County's costs of administering and enforcing this Ordinance.

6.53.110. - Enforcement.

A. The Department of Environmental Health shall administer the penalty provisions of this Chapter.

B. The Department of Environmental Health may issue an administrative citation to a Producer for violation of this Chapter or any regulation adopted pursuant to this Chapter. The Department shall first send a written warning to the Producer as well as a copy of this Chapter and any regulations adopted pursuant to this Chapter. The Producer shall have 30 days after receipt of the warning to comply and correct any violations.

C. If the Producer fails to comply and correct any violations, the Department may impose administrative fines for violations of this Chapter or of any regulations adopted pursuant to this Chapter. Each day shall constitute a separate violation for these purposes.

D. Any Person in violation of this Chapter or any regulation adopted pursuant to this Chapter shall be liable to the County of Alameda for a civil penalty in an amount not to exceed one thousand dollars ($1,000) per day per violation. Each day in which the violation continues shall constitute a separate and distinct violation.

E. In determining the appropriate penalties, the Department of Environmental Health shall consider the extent of harm caused by the violation, the nature and persistence of the violation, the frequency of past violations, any action taken to mitigate the violation, and the financial burden to the violator.

F. Any Producer receiving an administrative citation under this Chapter or any regulation adopted pursuant to this Chapter may appeal it within 21 calendar days from the date the administrative citation was issued. The administrative citation is deemed issued on the day it is sent by first class mail or personal service. The administrative citation shall state the date of issuance. If the deadline falls on a weekend or County of Alameda holiday, then the deadline shall be extended until the next regular business day.

The request to appeal must:

1. Be in writing;

2. Be accompanied by a deposit of the total fine and any fees noted on the administrative citation;

3. Specify the basis for the appeal in detail;

4. Be postmarked within 21 days from the date the administrative citation was issued; and

5. Be sent to the address as set forth on the administrative citation.

G. The written request to appeal will be reviewed and, if found to be complete, a date, time and place shall be set for a hearing before a hearing officer designated by the Director of the Department of Environmental Health. Written notice of the time and place for the hearing will be served by first class mail or personal service at least 21 days prior to the date of the hearing to the Producer appealing the citation. Service by first class mail, postage prepaid shall be effective on the date of mailing.

H. Failure of any Producer to file an appeal in accordance with the provisions of this section shall constitute waiver of that Producer's rights to administrative determination of the merits of the administrative citation and the amount of the fine and any fees and shall constitute a failure by that Producer to exhaust administrative remedies.

I. The Producer requesting the appeal may request the Director of the Department of Environmental Health to recuse a hearing officer for reasons of actual prejudice against the party's cause. The hearing officer shall conduct an orderly, fair hearing and accept evidence as follows:

1. A valid administrative citation shall be prima facie evidence of the violation;

2. Testimony shall be by declaration under penalty of perjury except to the extent the hearing officer permits or requires live testimony concerning the violation.

3. The hearing officer may reduce, waive or conditionally reduce the fines and any fees stated in the administrative citation. The hearing officer may impose deadlines or a schedule for payment of the fine and any fees due in excess of the deposit.

4. The hearing officer shall make findings based on the record of the hearing and make a written decision based on the findings ("Hearing Officer Decision"). The Hearing Officer Decision shall be served by first class mail on the Producer appealing and the Department. The Hearing Officer Decision affirming or dismissing the administrative citation is final, unless a timely notice of appeal is filed for hearing by the Board of Supervisors of the County of Alameda.

J. A second appeal may be filed with the Board of Supervisors within ten calendar days after the date of service of the Hearing Officer Decision.

1. The appeal may be taken by any Producer or the Department within said ten-day period, by filing with the clerk of the Board of Supervisors a notice of appeal specifying the grounds for such appeal. The \Board of Supervisors shall not hear any appeal that is untimely filed.

2. Upon receiving an appeal, the Clerk of the Board of Supervisors shall indicate upon every notice of appeal received the date upon which it was filed. The Department shall immediately arrange for an administrative record to be made available to the Board of Supervisors of all of the documents constituting the record upon which the action appealed was taken.

3. The Board of Supervisors shall give written notice of the time and place for a public hearing on any appeal filed pursuant to this section to the appellant and the Department.

4. The Board of Supervisors may hear additional evidence in its sole discretion and may sustain, modify or overrule any order brought before it on appeal.

5. The Board of Supervisors may make such findings and decisions as are consistent with state law and the County of Alameda Ordinances. If no motion relative to the Hearing Officer Decision appealed attains a majority vote of the Board of Supervisors within thirty (30) days from the date of the hearing by said board thereon, the Hearing Officer Decision shall stand sustained and be final.

K. The Department of Environmental Health may establish appropriate administrative rules for implementing this Chapter, conducting hearings, and rendering decisions pursuant to this section.

L. Upon the failure of any Producer to comply with any requirement of this Chapter and any rule or regulation adopted pursuant to this Chapter, the Alameda County Counsel's Office may petition any court having jurisdiction for injunctive relief, payment of civil penalties and any other appropriate remedy, including restraining such Person from continuing any prohibited activity and compelling compliance with lawful requirements. However, this subsection does not permit the County of Alameda or any court of competent jurisdiction to restrain the sale of any Covered Drug in Alameda County.

M. Any Person who knowingly and willfully violates the requirements of this Chapter or any rule or regulation adopted pursuant to this Chapter is guilty of a misdemeanor and may be prosecuted by the Alameda County District Attorney's Office. A conviction for a misdemeanor violation under this Chapter is punishable by a fine of not less than fifty dollars ($50) and not more than five hundred ($500) for each day per

violation, or by imprisonment in the Alameda County Jail for a period not to exceed six (6) months, or by both such fine and imprisonment.

6.53.120 - Additional provisions.

A. Disclaimer. In adopting and implementing this Chapter, the County of Alameda is assuming an undertaking only to promote the general welfare. Alameda County is not assuming or imposing on its officers and employees an obligation by which they could be liable in money damages to any Person or Entity who claims that a breach proximately caused injury.

B. Conflict with State or Federal Law. This Chapter shall be construed so as not to conflict with applicable federal or state laws, rules or regulations. Nothing in this Chapter shall authorize any Alameda County agency or department to impose any duties or obligations in conflict with limitations on municipal authority established by state or federal law at the time such agency or department action is taken. Alameda County shall suspend enforcement of this Ordinance to the extent that said enforcement would conflict with any preemptive state or federal legislation subsequently adopted.

C. Severability. If any of the provisions of this Chapter or the application thereof to any Person or circumstance is held invalid, the remainder of those provisions, including the application of such part or provisions to Persons or circumstances other than those to which it is held invalid shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.

D. Environmental Findings. The County of Alameda has determined that the actions contemplated in this Ordinance are in compliance with the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.).

E. Nothing in this Ordinance, or the Program of stewardship in which manufacturers of pharmaceutical products who sell Prescription Drugs in Alameda County are required to participate, is intended to protect anticompetitive or collusive conduct nor shall this Ordinance be construed to modify, impair, or supersede the operation of any of the antitrust laws or unfair competition laws of the State of California or of the United States.

F. This Ordinance shall be construed in accordance with California state law, including but not limited to the Medical Waste Management Act set forth at California Health and Safety Code sections 117600, et seq., and shall not be construed in a way that would result in conflict with, or preemption by, any such state law.

G. This Ordinance is entitled to a categorical exemption of the California Environmental Quality Act ("CEQA") pursuant to 14 California Code of Regulations section 15307, which exempts "actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or

protection of the environment where the regulatory process involves procedures for protection."

H. This Chapter shall be in effect for a period of ten (10) years following enactment.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on July 24, 2012, by the following called vote:

AYES: Supervisors Carson, Chan, Haggerty, Valle and President Miley -5

NOES: None

EXCUSED: None

NATE MILEY, President
Board of Supervisors
County of Alameda, State of California

ATTESTED TO:

Clerk Board of Supervisors, County of Alameda

By

APPROVED AS TO FORM:

DONNA R. ZIEGLER
County Counsel

By:
ROBERT D. REITER
Deputy County Counsel

ALAMEDA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

The following was action taken by the Board of Supervisors on *July 24, 2012*

Approved as Recommended ☑ **Other** ☐

Read title, waived reading of ordinance in its entirety and adopted Ordinance O-2012-27

Unanimous ☑ **Carson** ☐ **Chan** ☐ **Haggerty** ☐ **Haggerty** ☐ **Miley** ☐ **- 5**
Vote Key: N=No; A=Abstain; X=Excused

Documents accompanying this matter:

☐ **Resolution(s)** _____
☑ **Ordinance(s)** O-2012-27
☐ **Contract(s)** _____

File No. 28292
Item No. 69

Copies sent to:

Kamika Dunlap

Special Notes:

I certify that the foregoing is a correct copy of a Minute Order adopted by the Board of Supervisors, Alameda County, State of California.
ATTEST:
Crystal Hishida Graff, Clerk of the Board
Board of Supervisors

By: _____
Deputy

Attachment C

San Francisco Bay Area Green Business Program

Mailing Address: P.O. Box 2050, Oakland, CA 94604-2050
Street Address: 101 Eighth Street, Oakland, CA 94607 Website: http://www.greenbiz.ca.gov
Coordinator: Phone 510/464-7961 Fax 510/433-5561 e-mail: ceils@abag.ca.gov

Date: November 16, 2012

To: Hazardous Waste Management Facility Allocation Committee
Technical Advisory Committee

From: Ceil Scandone, Regional Coordinator

Re: Green Business Program Update

Introduction

The passage of AB 913, which established the California Certified Green Business Program, was greeted as a significant step towards accelerating the ongoing expansion of the Green Business Program throughout the state. Benefits were expected to include forging a statewide identity that takes advantage of the Program's new official status, lending it greater visibility among businesses and consumers, and providing a solid foundation for supportive collaboration with state agencies interested in effective outreach to small businesses. Local and regional program coordinators recognized that accomplishing these objectives would still require a great deal of work on their part, however there was strong commitment to working with staff at the Department of Toxic Substances Control, the state agency given responsibility for implementation of AB 913, towards orderly expansion.

Since the May 2012 Committee meeting, it has become increasingly clear that the financial and in-kind staff support we expected to continue receiving from the Department of Toxic Substances Control DTSC) has eroded even more significantly that anticipated at that time, at least in the short term. In particular, the Program is facing loss of funding after June 30, 2013 for the maintenance and hosting of the online database system all programs use to manage the certification process, measure the results, and provide directory listings.

Local and regional staff have been working with Bay Area partners, other programs in the network and DTSC to identify and secure funding for the database, and to create the more formal governance structure for the network that potential funders may require.

This memo will summarize the status of local programs, the situation at DTSC, and the efforts staff has undertaken, in partnership with Bay Area coordinators and partners throughout the Network to secure funding for the database.

Staff is requesting approval for minor budget adjustments to cover expenses that were unanticipated when the budget was approved in May.

Status of Local and Regional Programs

Local:
In the short term, local budget shortfalls, the general economic climate, and the time many have spent on Network – related tasks have constrained existing Programs. Those with adequate funding and staffing report that while interest remains strong, certification numbers are lagging. This may partly be due to strengthened standards that require businesses to retrofit inefficient lighting systems and restroom fixtures. Businesses may not have the resources, at this time, to cover retrofit costs.

Some local programs have actually or virtually shut down. The San Mateo County Program has been on hiatus for the past 18 months, while it sought support from San Mateo City / County Association of Governments. It expects to resume in January 2013 with a contractor rather than a staff coordinator. Sonoma County lost its coordinator in March 2012 and is just now interviewing for her replacement. The Marin County coordinator has fewer hours to allocate to the Program and Solano County has struggled to regain its momentum.

On the plus side, partners in Alameda, Contra Costa, Napa, San Francisco and Santa Clara counties have continued their financial and in-kind support. Coordinators in those counties have had the capacity to participate in efforts to define and shape the future of the California Green Business Program, and to help with the ongoing refinement of the database system, both time-consuming endeavors.

Regional:
At the regional level, I continue to work closely with Bay Area county coordinators to facilitate the Bay Area Green Business Program. In addition, I participate in strategy meetings to shape the statewide program, and help to secure funding for the database and local energy auditing needs.

Conversations with local certification partners, have been undertaken, to ensure their ongoing financial and in-kind support, with some notable successes. The Bay Area Air Quality Management District resumed funding for the Program this year. They have contributed $10,000 as a contribution to Database maintenance.

After meeting with numerous PG & E conservation, government affairs, and management staff, and with assistance from Alameda County coordinator, Pamela Evans, and ABAG's Assistant Executive Director and POWER manager, we are pleased to report that PG & E included in the current CPUC filing for 2013/14, funding for the Bay Area Green Business Program as part of ABAG's Local Government Energy Action Resources Program. The request was for $75,000 per year. That sum is intended to provide up to $5,000 per year for each Bay Area county program to cover the costs of energy audits for smaller businesses, and $30,000 per year to support the database. The CPUC approved the filing. The next step will be to get a contract in place to cover the specifics.

Department of Toxic Substances Control

The Department of Toxic Substances Control was named in AB 913 at the state agency responsible for establishing the California Green Business Program. Their roles included assisting the Network in implementing guidelines and structures that would promote consistency among programs across the state; financial and in-kind support for maintenance and enhancement of the database; establishing closer ties with other state agencies that had relevant missions and that could be expected to provide future support for the Program.

Since the legislation was approved, DTSC's commitment to the success of the Program has remained strong. However, DTSC's budget for pollution prevention activities has been cut drastically. Staff support has been reduced from the equivalent of 2 full time staff to less than 1/2 and that is expected to decrease further in 2013. Funding for the ongoing basic maintenance of the database will not continue past June 2013.

DTSC's budget constraints were addressed in a trailer bill, SB 1018, that modifies the statute that establishes the California Green Business Program and describes DTSC's roles and responsibilities. The changes are few, but significant. All references to DTSCs actitivities in support of the Program have been changed from "shall" to "may." Since SB 1018 is 95 pages long, an annotated copy of AB 913 that highlights the changes is attached.

We have received assurances that the elimination of support is entirely budget driven. DTSC Director Debbie Raphael, formerly Assistant Director of the Department of the Environment in San Francisco, supports the Program and wants it to succeed. Ms. Raphael met with Network representatives in June, and subsequently arranged for them to meet with the Director of Cal EPA. That led to a presentation before the heads of all the Cal EPA boards, departments and offices. The California Public Utilities Commission, CalRecycle, and California Air Resources Board, in particular, have relevant missions that could be advanced by the Green Business Program. We are hopeful that these meetings will lead to ongoing discussions and ultimately to financial support.

Work Plan Adjustments

Considering both the opportunities and the challenges, staff will continue to focus considerable time on Green Business - related activities. During the first half of 2012/13, in addition to regular Bay Area coordination duties, we have worked with county coordinators to increase capacity locally, and with regional and state partners to advance orderly, consistent statewide expansion. Avenues we are pursuing include increasing efficiency in the local and regional programs, better coordination among state agencies with related missions, and identifying new funding sources.

However, it has become increasingly apparent, that to secure funding for the database and other needs, the Network must demonstrate a higher level of commitment and organization and have a more formal governance structure than the current informal association provides. Given that the

Bay Area Green Business Program developed the original policy guidance and standards that are the foundation for the statewide program, and that our 9 county programs constitute more than half of the currently active local programs, and that the use of the database is now central to our operations, we have a particularly keen interest in having this work completed expeditiously. To advance that interest, we propose minor adjustments to the budget and work plan.

ABAG Attorney Ken Moy has been asked to facilitate development of the governance structure, and has agreed to assist in this endeavor. He has advised that the appropriate vehicle would be a Memorandum of Understanding among all active Programs, Regional Coordinators, and DTSC. He will work with staff, Bay Area local coordinators and Network members in the early part of 2013 to develop the MOU.

To develop and reach consensus on the scope and content of the MOU, ABAG will host the Network for a daylong meeting in January 2013. A professional facilitator will be engaged to ensure that the retreat results in the desired outcomes.

These adjustments to the work plan will result in a shift of funds currently allocated to the regional coordinator and to collateral expenses to cover Mr. Moy's staff time and the facilitator fees. We will seek approval for these shifts in the general budget and work plan update.

Attachment C.1

Note: AB 913 established the California Green Business Program in 2011. In 2012, a budget trailer bill was enacted that modifies the roles and responsibilities of the CA Department of Toxics Substances Control identified in Section 25244.17.2 of the Health and Safety Code, following passage of AB 913.

The trailer bill retains recognition of the California Green Business Program, and the Network of Local Programs as the operators, but, as indicated on pages 2 and 3, it changes all references to DTSCs activities in support of the Program from "shall" to "may."

BILL NUMBER: AB 913 CHAPTERED
BILL TEXT

CHAPTER 578
FILED WITH SECRETARY OF STATE OCTOBER 8, 2011
APPROVED BY GOVERNOR OCTOBER 8, 2011
PASSED THE SENATE SEPTEMBER 6, 2011
PASSED THE ASSEMBLY SEPTEMBER 8, 2011
AMENDED IN SENATE JUNE 13, 2011
AMENDED IN ASSEMBLY MARCH 31, 2011

INTRODUCED BY Assembly Member Feuer
(Coauthors: Assembly Members Bonilla, Huffman, and Williams)

FEBRUARY 17, 2011

An act to amend Section 25244.17.2 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 913, Feuer. Hazardous waste: source reduction: certified green business program.

The existing Hazardous Waste Source Reduction and Management Review Act of 1989 requires the Department of Toxic Substances Control to establish a program for hazardous waste source reduction, including requiring specified generators of hazardous waste to maintain certain plans and reports with regard to hazardous waste reduction practices. The department is required to provide source reduction training and resources to various regional and local government assistance programs to identify and apply source reduction methods.

This bill would require the department, as part of implementing this program, to develop a California Green Business Program that provides support and assistance to local government programs that provide for the voluntary certification of small businesses that adopt environmentally preferable business practices, including, but not limited to, increased energy efficiency, reduced greenhouse gas emissions, promotion of water conservation, and reduced waste

generation. The department would be required to take specified actions with regard to implementing the California Green Business Program and would be authorized to provide support and assistance to a local government program to enable the program to meet certain requirements.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) The California Green Business Program is a statewide network of local government programs that certify small- to medium-sized businesses as having adopted environmentally preferable business practices.

(b) These local government programs coordinate with other programs in their jurisdictions to assist businesses with achieving and moving beyond regulatory compliance.

(c) Businesses certified by this program implement multimedia pollution prevention activities to achieve measurable waste reduction, energy savings, water conservation, and sustainability, in consultation with local governments, utility providers, and other entities.

(d) The California Green Business Program promotes improved community health outcomes, economic vitality, sustainability, and green jobs.

(e) The California Green Business Program provides small businesses with a level and quality of consultation on environmentally preferable business practices to which small businesses otherwise may have limited access.

(f) The California Green Business Program can save businesses money through coordinating with funding opportunities for efficiency upgrades and long-term savings associated with decreased utility bills.

(g) The Department of Toxic Substances Control serves as a statewide program contact, coordinator, and liaison with other state agencies, consistent with subdivision (h) of Section 25244.13 of the Health and Safety Code.

(h) In California, there are currently 14 county and two city green business programs, which have together certified over 2,600 green businesses.

SEC. 2. Section 25244.17.2 of the Health and Safety Code is amended to read:

25244.17.2. The department ~~**shall expand the department's source reduction program to**~~ **may** provide source reduction training and resources to CUPAs, small business development corporations, business environmental assistance centers, and other regional and local government environmental programs so that they can provide technical assistance to ~~generators~~ businesses in identifying and applying methods of ~~source reduction~~ pollution prevention.

(a) The ~~**program expanded**~~ **activities conducted** pursuant to ~~this section~~paragraph (1) shall emphasize activities necessary to implement Sections 25244.17 and 25244.17.1.

(b) As part of implementing the program ~~required~~ **authorized** by this section,
the department ~~shall~~ **may** develop a California Green Business Program that provides support and assistance to programs operated by local governments to meet the requirement of subdivision (c) and that would voluntarily certify small businesses that adopt environmentally preferable business practices, including, but not limited to, increased energy efficiency, reduced greenhouse gas emissions, promotion of water conservation, and reduced waste generation. The department's California Green Business Program ~~shall~~ **may do any or** all of the
following:

(1) Assist the network of statewide local government programs in implementing guidelines and structures that establish and promote a level of consistency among green business programs across the state.

(2) Support, through staffing and contracts, the development and maintenance of a statewide database to register small businesses granted green business certification, or its equivalent, pursuant to a local government program, and track measurable pollution reductions and cost savings.

(3) Solicit participation of additional local programs and facilitate the startup of new local programs.

(4) Develop technical guidance on pollution prevention measures, conduct industry studies and pilot projects, and provide policy coordination for the participating local programs.

(5) Collaborate with relevant state agencies that operate small business efficiency and economic development programs, including, but not limited to, the Department of Resources Recycling and Recovery, the Public Utilities Commission, the State Energy Resources Conservation and Development Commission, the State Air Resources Board, and the Department of Water Resources.

(c) The department may provide support and assistance to a local government program to enable the program to meet all of the following requirements:

(1) The program will be operated by a local government or its designee.

(2) The program will adopt industry-specific standards for green business certification, or its equivalent, in consultation with the other participants in the California Green Business Program.

(3) The program will grant a small business that voluntarily applies to the program a green business certification or its equivalent, only upon a determination by the program operator or designee that the business is a small business, as determined by the program, and complies with the industry-specific standards for green business certification adopted pursuant to paragraph (2).

(4) The program will grant a green business certification, or its equivalent, to small businesses, as determined by the program, in accordance with all of the following requirements:

(A) Before the program grants green business certification or its equivalent, the program conducts an evaluation to verify compliance with the appropriate green business certification standards adopted pursuant to paragraph (2).

(B) A green business certification or its equivalent is granted only to an individual location of a small business.

(C) A green business certification or its equivalent is granted to an individual small business only for a limited time period, and, after the elapse of that time period, the small business is required

to reapply for that certification.

(D) Compliance with applicable federal, state, and local environmental laws and regulations is required as a condition of receiving a green business certification or its equivalent.

(d) The department ~~shall~~ may determine, in consultation with the advisory committee, the most effective methods to promote implementation of ~~source reduction~~ pollution prevention education programs by CUPAs, small business development corporations, business environmental assistance centers, and other regional and local government environmental programs. Program elements may include, but are not limited to, all of the following:

(1) Sponsoring workshops, conferences, technology fairs, and other training events.

(2) Sponsoring regional training groups, such as the regional hazardous waste reduction committees.

(3) Developing and distributing educational materials, such as short descriptions of successful ~~source reduction~~ pollution prevention projects and materials explaining how ~~source reduction~~ pollution prevention has been used by businesses to achieve compliance with environmental laws enforced by local governments.

(4) Developing site review checklists, training manuals, and technical resource manuals and using those resources to train CUPAs, small business development corporations, business environmental assistance centers, and other regional and local government environmental programs.

(5) Preparing and distributing resource lists such as lists of vendors, consultants, or providers of financial assistance for ~~source reduction~~ pollution prevention projects.

(6) Serving as an information clearinghouse to support telephone and onsite consultants with local governments.

(e) Each fiscal year, the department shall provide training and information resources to at least 90 percent of CUPAs.

Attachment D

Bay Area Hazardous Waste Management Facility Allocation Committee

administered by

Association of Bay Area Governments

101 Eighth Street, Oakland, CA 94607-4756 P. O. Box 2050, Oakland, CA 94604-2050
http://www.abag.ca.gov/hazwaste 510/464-7961

Budget & Workplan FY 2012-13
Draft Revised 11/16/12

Overview

This Budget and Workplan for the Hazardous Waste Management Facility Allocation Committee (Committee) includes proposed activities and allocation of funds for fiscal year 2012/2013. Activities are organized into two main categories, Hazardous Waste and the Green Business Program. Anticipated revenues of $105,035 include $10,559.50 from each of the 9 Bay Area counties, and $10,000 from the Bay Area Air Quality Management District. The local contribution is the same amount billed in 2011/12. No increase is requested for the coming fiscal year.

Due to budget constraints, the Bay Area Air Quality Management District, which had provided annual grants for several years, did not provide funding for the 2011/12 fiscal year. A request ~~has been~~ submitted to the Air Pollution Control Officer asking the District to resume its annual contribution of $10,000 for fiscal year 2012/13 was successful~~. If received, the funds would~~ and will be used for the maintenance and enhancement of the statewide measurement database that calculates the environmental benefits achieved by our businesses. That ~~would~~ may reduce the contributions requested from Bay Area counties by the database administrator. ~~Because it is uncertain whether the funds will be granted, they are not included in the proposed budget.~~

Appendix A provides a summary of work accomplished in fiscal year 2011/12.

Hazardous Waste

Universal Waste Processing Facilities: During the 2012/13 Fiscal Year, staff will work with the Technical Advisory Committee (TAC) and a consultant to implement the research project the Committee approved at its meeting on January 27, 2012. The project will examine the potential to site facilities that process universal wastes, such as batteries and used electronic devices, in the Bay Area, and recommend what additional efforts the Committee might pursue in the future to address the large volumes of wastes being shipped out of the region. Appendix B is a revised project memo that reflects Committee direction on the components of the project report.

This effort will be undertaken instead of analyzing the 2010 and 2011 hazardous waste manifest data. During the year, we will confer with Department of Toxic Substances Control and local TAC members on how to approach future analyses of the hazardous waste manifest data to ensure the process meets DTSC expectations and is useful to our members.

Sustainable Purchasing: In response to sustained interest, we will continue to promote Sustainable Purchasing. After organizing successful regional workshops in each of the past 3 years, staff proposes a different approach that is intended to help more agencies interested in sustainable purchasing initiate and implement programs. Instead of offering a workshop, staff will monitor and post on the Committee webpage information about the subregional initiatives currently underway in Alameda, Santa Clara and Napa counties and any other local efforts we identify. Staff will also research and update the information currently on the site about local government policies and programs. This effort will create a repository of information that any jurisdiction can use. An announcement with links to the updated site will be circulated to ABAG member jurisdictions. We will also work to strengthen our partnership with the Responsible Purchasing Network, and remind our members of the wealth of resources available at their website, many of which are available to non-members.

Extended Producer Responsibility: Staff will continue to monitor and report on Extended Producer Responsibility (EPR) and other relevant legislation, local EPR efforts and the Green Chemistry Initiative. We will inform the Committee and TAC members in a timely manner when there are opportunities to comment or take other actions.

Green Business Program

The success of AB 913, which established the California Certified Green Business Program, offers long term opportunities for the ongoing expansion of the Green Business Program throughout the state. These include forging a statewide identity that takes advantage of the Program's new official status, lending it greater visibility among businesses and consumers, and providing a solid foundation for supportive collaboration with state agencies interested in effective outreach to small businesses.

In the short term, local and state budget shortfalls and the general economic climate will constrain existing Programs from expanding and new Programs from launching. Some local Programs will initiate fees for Program participation in the coming year. Negotiations with local certification partners, such as PG & E, are anticipated to ensure their ongoing financial and in-kind support. Significant state funding for the ongoing maintenance of the database is anticipated, but not at a level that can fully fund needed enhancements, training for new programs, or other expenses.

As members of a statewide Program, the Bay Area and all other local Programs around the state will be challenged to more closely conform their standards and marketing efforts. Working with DTSC and other Green Business Programs around the state, we will participate in the development of a statewide logo and marketing campaign, and update our regional website and materials as needed to tie the Bay Area to the California Certified Green Business Program.

Considering both the opportunities and the challenges, staff will continue to focus considerable time on Green Business - related activities. During 2012/13, in addition to regular Bay Area coordination duties, we will work with county coordinators to increase

capacity locally, and with regional and state partners to advance orderly, consistent statewide expansion. Avenues to pursue include increasing efficiency in the local and regional programs, better coordination among state agencies with related missions, and identifying new funding sources.

In order to secure funding for the database and other needs, the Network has been advised that it must have a more formal organization and governance structure than the current informal association provides. Given that the Bay Area Green Business Program developed the original policy guidance and standards that are the foundation for the statewide program, that our 9 county programs constitute more than half of the currently active local programs, and that the use of the database is now central to our operations, we have a particularly keen interest in having this work completed expeditiously.

To advance that interest, ABAG Attorney Ken Moy will facilitate development of the governance structure. He has advised that the appropriate vehicle would be a Memorandum of Understanding among all active Programs, Regional Coordinators, and DTSC. He will work with staff, Bay Area local coordinators and Network members in the early part of 2013 to develop the MOU. To develop and reach consensus on the scope and content of the MOU, ABAG will host the Network for a daylong meeting in January 2013. A professional facilitator will be engaged to ensure that the retreat results in the desired outcomes.

PROPOSED 2012 / 2013 WORKPLAN

We are seeking Committee approval for the 2012 – 2013 Budget and Work Plan. Staff activities are broken down into two main categories: Hazardous Waste Management Planning/Source Reduction, and the Green Business Program. Approximately 45% of staff time is devoted to the former category, and 55% to the Green Business Program.

Hazardous Waste Management Planning/Source Reduction

Staff the Committee, Technical Advisory Committee (TAC).

Engage a consultant, organize a stakeholder group, research and write a report on the potential to attract innovative universal waste processors to the Bay Area in order to address the high volume of hazardous wastes being shipped outside the region, promote environmentally responsible processing, and contribute to a more resilient economy.

Confer with Department of Toxic Substances Control and local TAC members and report on how to approach future analyses of the hazardous waste manifest data DTSC compiles to ensure the process meets legal requirements and is useful to ABAG members.

Monitor and report on multi-agency sustainable purchasing efforts in Alameda, Santa Clara, Napa and other counties. Identify new/revised sustainable purchasing policies, resolutions, ordinances, and specifications.

Update committee website at http://www.abag.ca.gov/hazwaste/ to provide additional sustainable purchasing tools, resources and links for local governments; consider other opportunities to promote sustainable purchasing, including presentation to ABAG Executive Board.

Confer with the sustainable purchasing work group to identify additional ways to motivate/assist local jurisdictions interested in implementing EPP programs.

Work with TAC, the California Product Stewardship Council, and others to track and apprise the Committee of state and local Extended Producer Responsibility and Sustainable Purchasing activities, including legislation. Report as directed to ABAG Legislation & Governmental Organizations Committee and/or Executive Board.

Follow the Department of Toxic Substances Control's Green Chemistry Initiative; apprise Committee and TAC of opportunities to comment and participate in related discussions.

Report on regulatory / other changes pertaining to universal and electronic wastes.

Green Business Program

Staff the Bay Area Green Business Program TAC.

Coordinate, expand and promote the Bay Area Green Business Program to ensure ongoing health of Bay Area county programs

Facilitate development of checklists for new sectors identified and deemed suitable for the Program by Bay Area coordinators.

Identify funding and other opportunities to increase local and regional Green Business Program capacity.

Assist local programs that intend to augment their budgets by charging a fee for participation to develop fee schedules that avoid disadvantaging businesses with limited resources; share information with all coordinators to encourage consistent fee structures across the Bay Area.

Facilitate conversations with regional partners, such as the Bay Area Air Quality Management District and Pacific Gas & Electric Company to ensure timely and thorough site audits, seek input to help update our standards, and pursue financial contributions.

Work with DTSC and local coordinators around the state to develop and implement strategies to increase financial support for local programs and statewide database, and to expand participation in the California Green Business Program.

Assist DTSC in conversations with state entities that have complementary missions, such as California Air Resources Board, CalRecycle, California Public Utilities Commission, and Department of Water Resources, to better align our efforts and seek support.

Participate in the development / adoption of a statewide logo for the Green Business Program; work with DTSC and local programs in the California Green Business Network to move in an orderly and strategic way towards a statewide identity that amplifies the impact of our local programs.

Update Bay Area website as needed; purchase window decals and other collateral.

Participate in development of a strategic plan for long term operations and governance of the statewide Network to ensure consistent operations consistent with Bay Area policies and standards, and secure funding for maintenance of the statewide database and other expenses

Lead the development of a Memorandum of Understanding or other governance structure and instrument for the Network.

Work plan staff assignment allocations and details follow in the section entitled Proposed 2012-2013 Budget.

Proposed 2012/2013 BUDGET

Anticipated Revenue

County Contributions:	**$95,035**
BAAQMD Database Contribution:	**$10,000**
Total:	**$105,035**

On March 23, 2007, the Committee approved annual cost-of-living adjustments to the county fee based on the 12-month moving average of the Consumer Price Index calculated in the same month as the adjustment to the ABAG membership dues. Using that formula, for the 2011/12 Fiscal Year, the adjusted fee was $10,559.50.

In recognition of the ongoing budget difficulties experienced by our members, we are not seeking an increase in the fee for Fiscal Year 2012/13.

The Bay Area Air Quality Management District approved a contribution or $10,000 to support the Green Business Program database.

Budgeted Expenses:

Personnel and Overhead	**~~$71,596~~**	**$68,512**
Consultants	**~~$19,500~~**	**$21,000**
Materials, Conferences, Miscellaneous	**~~$3,939~~**	**15,523**
Total:		**$105,035**

PROPOSED STAFF ALLOCATIONS

Committee administration. **Staff time: 72 hours**

Task Summary: Schedule meetings, develop agenda packets, write minutes, staff meetings, research legislation, report to ABAG Legislation and Governmental Organizations Committee and Executive Board, prepare annual budget and work plan.

(Krebs – 20 hours; Scandone –40 hours; accounting/support staff – 12 hours)

Recycling Facilities Project / EPR/ Sustainable Purchasing

Staff time: 180 hours

Consultants: 180 hours

Task Summary: Identify/contract with consultant; work with TAC to further scope and guide project; identify and convene stakeholders; manage stakeholder input process; review and comment on drafts; present draft final report to Committee for approval; present approved report to other ABAG bodies as directed by the Committee; monitor and report on Sustainable Purchasing initiatives and update web resources; monitor and report on Green Chemistry, EPR, and other source reduction opportunities; monitor legislation and report as directed to ABAG Legislation and Governmental Organizations Committee.

(Krebs – 100 hours; Scandone – 60 hours; Trigueros – 12 hours; Webmaster – 8 hours)

Bay Area Green Business Program Coordination. **Staff time: 428 hours**

Consultants: 12 hours

Task Summary: Support county coordinators; identify resources/efficiencies to improve capacity; purchase materials/implement outreach; update website; ensure consistent application of standards; support expansion into new industries, including potential partnership with Air District on fleets; participate in efforts to improve coordination/partnerships with state agencies; lead development to define scope and develop network organizational and governance structure.

(*Scandone – 400 hours; Moy –16 hours; support staff 8 hours; Webmaster – 4 hours*)

Appendix A

2011/12 ACCOMPLISHMENTS:

The following section, which describes 2011/12 accomplishments, is intended to update the Committee on the status of current efforts and provide context for ongoing activities.

Hazardous Waste Management Planning / Source Reduction

Since inception, the Committee has had two objectives:

1) ensure adequate understanding of hazardous waste generation and treatment trends, and capacity for managing hazardous wastes generated within the Bay Area; and

2) promote source reduction activities to prevent pollution and avoid the need to site new hazardous waste management facilities.

While the means and methods to address them have evolved over the years, meeting these two objectives continues to define the Committee's work.

During 2011/12, staff has worked to accomplish the following:

Monitored and reported on Green Chemistry-related activity in Sacramento, in consultation with Department of Toxic Substances Control staff.

Worked with TAC, the California Product Stewardship Council, and others to stay apprised of Extended Producer Responsibility-related legislation and other initiatives.

Coordinated with ABAG Legislation & Governmental Organizations Committee staff to ensure that EPR and other relevant legislation be monitored as 2011 legislative priorities; attended L & GO meetings to serve as a resource.

Consulted with the Technical Advisory Committee on a project proposal for Fiscal Year 2012/13 to examine the potential to recruit and site in the Bay Area facilities that process universal wastes, such as batteries and used electronic devices.

Hired and managed the work of consultant Linda Spencer, who drafted a project proposal for Committee consideration.

Consulted with Sustainable Purchasing Work Group meetings to seek input on December conference and other potential sustainable purchasing activities.

Engaged Alicia Culver of the Responsible Purchasing Network to organize the Sustainable Purchasing workshop held in November 2011.

Maintained the Committee website (http://www.abag.ca.gov/hazwaste/) that lists members, posts agendas and minutes, and provides information about relevant topics and legislation.

Green Business Program:

The Green Business Program continues to grow, though at a slower pace. As of May 2012, there are 2,300 Bay Area Green Businesses, approximately the same number as last year. While counties are adding new Green Businesses (just over 200 new businesses were certified in the past year), and re-certifying many that have reached the end of their 3-year cycle, some previously certified businesses are not recertifying.

The static number of certified businesses reflects the slow economy, since a number of certified businesses have closed their doors. Businesses may be unable, or their landlords may be unwilling, to invest in the energy and water conserving fixtures the standards require. It likely also reflects program-related factors: 1) local government budgets have resulted in reduced staffing in some counties; 2) in counties that have offered the program for many years, recertification accounts for an increasing proportion of program time.

The online system was intended to improve efficiency, and enable coordinators and their partners to work with more businesses. After 18 months of intensive work, it is now fulfilling that promise. In 2011, a design firm was engaged to upgrade the user experience so that businesses now need less support from coordinators as they complete their checklists.

All 9 Bay Area counties continue to offer the Program, though at significantly different levels. San Mateo County put its program on hold in July 2011 due to budget constraints. The county hopes to resume the Program in July 2012. Solano County similarly has staffing constraints that limit its participation.

Checklists: To ensure that Program checklists reflect the most up-to-date recommendations and standards, coordinators in the Bay Area and around the state have implemented a consultation protocol so that new practices and technologies can be reviewed and added to the online checklists in a timely manner.

A checklist for Property Managers has been completed and will be submitted to the Committee for approval at the meeting on May 25, 2012. This is one of the more complex checklists to be developed, since it requires that the firm meet the standards not only at their own office but also at one or more of the properties managed. We expect it to motivate managers to implement whole building retrofits that have significant environmental benefits.

Outreach: The regional website is a key marketing tool for the Program and its businesses. The site provides a portal to the searchable listings of the Green Businesses in the Bay Area and throughout the state, validating a business's claim that it meets Program standards.

ABAG's webmaster created a portal on the Bay Area Green Business Program site that draws in the business search form from the statewide system. This preserves our local brand identity while allowing site visitors to find Green Businesses in the Bay Area and beyond. The switch from manual to automatic updates occurred in December 2010. The new interface design implemented in October 2011 significantly improved the user experience.

California Green Business Network/Program Expansion: During 2011/12, the Program and its sister programs In the California Green Business Network achieved official state status when AB 913 created the California Green Business Program. The legislation stipulates that the state program is based on the model developed here and now implemented by network members elsewhere in the state. New programs that wish to be recognized as members of the California Green Business Program must follow our model.

For the past several months, staff has worked with a statewide Committee on a scaling plan. Issues to consider include processes for timely evaluation of new members, funding to support continued maintenance and enhancement of the statewide database, development of a statewide logo and brand for the California Green Business Program and a process/timeline for integrating that logo into local program websites and materials.

The legislation directs DTSC to work with the California Air Resources Board (CARB) and other state agencies with relevant missions to forge closer relationships that might, in future, have resources to support local environmental initiatives like the green business program. The success of AB 913, which establishes the California Green Business Program with DTSC as the state coordinator, is expected to help DTSC and the local Green Business Programs around the state make a stronger case for better coordination and improved support from state agencies for our local Programs.

In 2009, the Committee approved a change to the Policy Guidelines to allow local programs to charge businesses fees for participating in the Program. Alameda and San Mateo County has indicated that they intend to begin charging fees sometime in 2012.

Constrained local budgets delayed program launch by the City of Los Angeles, and Humboldt and Mendocino counties. We anticipate they will begin operations later in 2012.

During 2011-2012 staff has accomplished the following:

- Convened and staffed county coordinator meetings.
- Facilitated development of property manager checklist.
- Updated Policy guide.
- Maintained and enhanced website.
- Managed recruitment of database design team.
- Worked with legislative staff and CAGBN members on development and coordinated solicitation of support letters for AB 913.

- Served on the scaling committee that is planning for program expansion.
- Consulted with DTSC marketing staff on efforts to develop new logo and plan a marketing campaign.
- Served on the review panel for the Air Resources Board's Cool California Awards.
- Coordinated purchase of program materials.

Appendix B

To: Bay Area Hazardous Waste Management Facility Allocation Committee
From: Technical Advisory Committee
Re: Draft Revised Committee Project: *Sustainable Processing of Universal Waste and Electronics*
Date: May 25, 2012

The Bay Area Hazardous Waste Management Facility Allocation Committee (Committee) has monitored Bay Area hazardous waste trends since 1989. Responding to state legislation, the Committee developed a regional fair-share approach for siting treatment facilities. In 2003 the Committee requested an in-depth look at the region's hazardous waste treatment capacity. Since that time the Region's treatment capacity has continued to decline. The most recent analysis of Bay Area data indicated that in 2009, over 80 percent of hazardous waste in the Bay Area was exported for treatment elsewhere.

Following the 2006 California legislation that made it illegal to dispose of universal waste (UW) products (e.g., fluorescent lamps, alkaline batteries, and electronic product) in the trash, the volume of these wastes has drastically increased at household hazardous waste (HHW) collection facilities. The challenges to local governments of managing this burgeoning volume was highlighted in the October 29, 2010 Committee report, *Hazardous Waste Generation and Treatment Trends*.[1] Ultimately most universal waste is shipped not just out of the region, but outside the U.S. for treatment/resource recovery.

Over the years, the Committee has demonstrated an interest in managing at least some of these wastes in the region. There are a number of reasons why local processing of UW may be a more sustainable option for the Bay Area.

The lack of recycling-based manufacturing and processing facilities means that the higher paying recycling jobs are located outside the region.[2] Increased local recovery capacity has the potential to stimulate investment and the creation of jobs in the de-manufacturing, recycling, and reuse industries.

Underutilized industrial lands are at risk of conversion to other uses. Identifying productive uses for these sites contributes to a more sustainable, resilient, balanced regional economy.

The types and volumes of wastes that are considered hazardous are on the rise; while the draft Green Chemistry rules require manufacturers of products that contain chemicals of concern to develop product stewardship plans, the rules will potentially result in new categories of consumer products that must be handled differently from the way they are handled today.

---

[1] http://www.abag.ca.gov/hazwaste/staffmemos.html

[2] CalRecycle (aka Integrated Waste Management Board), 2003. Benefits of Regional Recycling Markets: An Alameda County Study.

Shipping these items outside the region and/or outside the country increases the region's carbon footprint. In addition, because processors in other countries may not be bound by regulations as stringent as those in the U.S, their activities may expose workers and the environment to serious harm.

With the need growing, and technologies for processing these wastes improving, it may be appropriate to initiate a regional effort to examine the potential to site such facilities in the Bay Area at this time.

Fiscal Year 2012-13 Work Plan: Proposed White Paper

On October 7, 2011 the Technical Advisory Committee (TAC) met to plan for the next biennial analysis (during fiscal year 2012/13) of the Bay Area's 2010/11 hazardous waste generation and treatment trends. As an alternative to performing that analysis, the TAC discussed the possibility of researching how the Bay Area might encourage businesses to site state-of-the-art U and E- waste recycling facilities here. In addition to meeting the committee's objective of treating more hazardous wastes locally, such facilities might have other significant benefits:

Create jobs – provide good "green" and "green collar" jobs in de-manufacturing and re-manufacturing,
Stimulate economic development – preserve and put underutilized industrial areas back to use,
Realize savings - reduce financial costs and environmental impacts of shipping materials out of the region,
Achieve sustainability - reclaim and reuse resources from our waste stream resulting in a reduced burden on nonrenewable natural resources, and
Promote resiliency - contribute to a more diverse and sustainable economy.

The TAC discussed producing a white paper with three sections. The ***first section*** would identify specific u-wastes as opportunities/challenges for siting recycling facilities for certain universal and electronic wastes that show promise for local recovery. The white paper would consider the following products to investigate further: batteries, fluorescent bulbs, cell phones, computers, rigid plastics, and leaded glass. Each product would be evaluated as to how potentially successful it would be to site a processing facility based on readily available information. Evaluation criteria would include:

Innovative waste treatment technology
Low or no threat to the environment or public health
Largest flow of waste
Public acceptance
Ease of permitting
Manufacturer's priorities
Cost
Local demand

The TAC has identified the following diverse group of public, private, and non-profit organizations as stakeholders that could contribute knowledge and expertise:

Planning / Community & Economic Development departments
CalRecycle Recycling Market Development Zones
Community/Social Equity/Environmental Justice groups (Urban Habitat, Green for All)
Public agencies and affiliates (Cal EPA, US EPA, Governor's Office of Economic Development, CalRecycle, Department of Toxic Substances Control, Bay Area Air Quality Management Distict, SF Bay Water Quality Control Board, California Product Stewardship Council)
Environmental groups (Natural Resources Defense Council, Environmental Defense Fund, Silicon Valley Toxics Coalition)
Brownfields reuse organizations (Center for Creatve Land Recycling)
TSDs and/or Waste Disposal Companies
Business and labor organizations
Product manufacturers/de-manufacturers/remanufacturers
Academic / research community

In order to conduct the research and ground-truth the evaluation, we would contact a representative sub-set of these stakeholders for input. The perception that a U-Waste recycling facility would be undesirable in local communities ultimately could be the largest obstacle to overcome. While the extensive level of outreach needed to fully address this perception is beyond the scope of the White Paper, we plan to work with key stakeholders who can help us to frame the issues constructively.

The white paper's ***second section*** would explore potential obstacles to siting and/or operating U-Waste recycling facilities in the Bay Area. At present, electronics is a category of wastes for which information is more readily available, and thus is used here to illustrate some of the challenges. Two current initiatives, one to process polymers and the other to process batteries are also briefly noted. If the project goes forward, the opportunities and challenges to process these and other wastes would be fully explored.

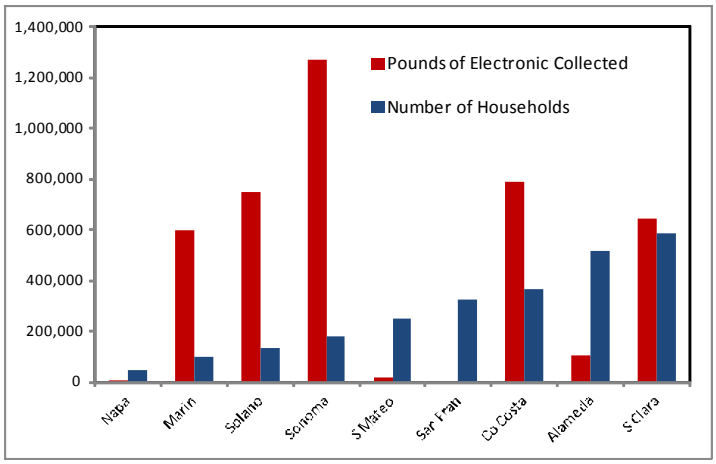
Electronics Recycling

Expanding the capacity for used electronics recycling in the Bay Area faces many obstacles, despite the passage of regulation in California that provides built-in financial incentives. The obstacles include higher costs to local governments, low recycling rates amongst households, small number of local recyclers, and concerns regarding the lack of uniformity in safe and secure recycling practices. Each of these obstacles is touched upon below, as an example of the types of issues the project would explore in greater depth.

In 2003 SB 20, the Electronic Waste Recycling Act, established an Advanced Recycling Fee (ARF) on retail sales of electronic wastes. Recyclers are reimbursed at a rate $0.48/lb for eligible products collected and recycled, $0.20/lb. of which must be passed on to the approved collector. The Act was subsequently amended by SB 50, and expanded by emergency DTSC regulation. Local agencies have found the ARF "difficult

to implement and administer". A considerable amount of bureaucracy has been created to establish, collect, and disperse fees and to certify recyclers.[3]

Currently, the wastes that were "covered" under the Act, as amended, are video display devices with screens greater than four inches that are presumed to be hazardous when disposed including cathode ray tube (CRT) devices, CRT televisions and computer monitors; liquid crystal display (LCD) televisions and desktop monitors; laptop computers with LCD displays; portable DVD players, and plasma televisions sold in California. HHW programs also collect a significant volume of "non-covered" video display devices.



The Institute for Electronic Recyclers conducted a national survey in 2010 and found a low recycling rate amongst consumers/households. Despite the fact that the consumer market constitutes the largest electronics volume purchased, it constitutes only 26 percent of what recyclers receive. The Institute concluded that a large volume of electronics most likely ends up in landfills. In addition, they report that increasing the recycling volume amongst consumers/households "will inevitably spur economic growth and job creation with an expanded industry."[4]

Covered and universal electronic wastes collected in 2008/09 by HHW programs, as reported to DTSC on 303 forms, are shown here along with the number of households by county. Sonoma County reported the highest amount (1.3 million pounds). Sonoma County has consistently collected over 1 million pounds for the past three years. Staff at the Sonoma County Waste Management Agency attribute their high volumes to their aggressive advertising program.[5] Sonoma County HHW electronics are shipped to ECS Refining in San Joaquin County (Stockton).

Used Electronics Collecters and Recyclers by County

County	Collectors[1]	Recyclers[1]
Alameda	45	5
Contra Costa	21	1
Marin	5	0
Napa	4	0
San Mateo	10	0
San Francisco	2	0
Santa Clara	38	4
Solano	6	0
Sonoma	8	0
Total	139	10

[1] CalRecycle database, 2011. Approved to accept SB50/SB20 covered wastes.

www.calrecycle.ca.gov/Electronics/Reports/Search.aspx

[3] Rob D'Arcy, 2006. Local Governments' Looming Fiscal Crisis - Household Hazardous Products and the Need for Extended Producer Responsibility. www.calpsc.org/assets/policies/thru2008/CA_HHW_EPR_D%27Arcy_White_Paper.pdf

[4] International Data Corporation, 2011, Survey, Inside the US Electronics Recycling Industry.

[5] Lisa Steinman, November 21, 2011. Waste Management Specialist, Sonoma County Waste Management Agency. Personal Communication.

The variability between counties likely reflects the additional collections done by private companies that are not reflected on the 303 forms. A search of CalRecycle's database of recyclers approved to accept covered electronic products indicates that statewide there are over 500 collectors, but just over 50 that actually do recycling. There are 10 approved recyclers in the Bay Area. The General Accounting Office reports that, "while some exported used electronics can be handled responsibly…a substantial amount ends up in countries such as China and India, where they are often handled and disposed of unsafely.[6] Secure destruction of all sensitive information and materials must be guaranteed, and industry experts are finding that the "reverse logistics" or the process of ensuring safe handling and destruction of potentially sensitive information stored on computers is not standardized. [7] Third-party certification, such as R2 and e-Steward provide mechanisms to ensure environmental, worker health and safety, and security practices are adhered to.[8] Four of the ten Bay Area recyclers who are approved by DTSC to recycle covered electronics have received third party certification.

Promising Recycling Prospects

TAC members have suggested following up with two recyclers--MBA Polymers and Akkuser—that might be good prospects for a Bay Area facility. We understand that both companies have sought to locate/expand in the Bay Area. MBA Polymers is an international company headquartered in Richmond, CA. They are equipped to receive complex waste streams, separate out the polymers, and purify them for reuse. MBA Polymers recycles plastics from goods including appliances, autos, computers, and electronics. Their primary recycling operations take place in China, Austria, and the UK. The Richmond headquarters is a research-only facility.

Akkuser is a Finland- based ISO 14001 and ISO 9001 certified battery recycling company that has sought to expand operations in Santa Clara and Alameda County. Akkuser has patented Dry-Technology®to separate and process metals back into their elemental form for reuse in

Potential Jobs Created by CA Battery Recycling

	Alkaline		Rechargeable	
Job Type	**Baseline**	**Full-scale**	**Baseline**	**Full-Scale**
Operations	34	378	14	42
Sorting	48	310	8	24
Office	4	40	3	9
Sub-total	**86**	**728**	**25**	**75**
Construction	65	455	19	57
Total	151	1,183	44	132

Other Permanent Jobs	Full-Scale Statewide Implementation
Collection Logistics	3,700
Retail Collections	8,880

Data supplied by Akkuser, Hørsholm, Denmark

Alkaline: Baseline=1 crushing, 2 leaching plants; Full-scale= 7 crushing 15 leaching plants

[6] General Accounting Office, August 2008, Electronic Waste: EPA Needs to Better Control Harmful U.S. Exports through Stronger Enforcement and More Comprehensive Regulation, GAO 08-1044. http://www.gao.gov/new.items/d081044.pdf

[7] Haber, Terry, 2011. Bringing Standardization to Asset Recovery Logistics, Reverse Logistics Magazine, Edition 31, 2011. http://viewer.zmags.com/publication/d9a28d6b#/d9a28d6b/4

[8] R2 Solutions www.R2solutions.org. e-Stewards www.e-stewards.org

foundries. For the past five years, Akkuser has successfully recycled rechargeable batteries throughout Scandinavia. New technology has been developed to efficiently recycle alkaline batteries at an estimated cost of about 25 cents per pound. In a prospectus provided to Santa Clara County, Akkuser estimates that seven crushing and fourteen leaching plants would be needed to recycle all the alkaline batteries generated within California. In order to recycle rechargeable batteries not currently collected (4,536 tons), Akkuser estimates the need for three crushing plants in California. This table summarizes the number of jobs created by both a baseline scenario (one alkaline battery crushing plant, two alkaline leaching plants, and one rechargeable plant) and a full-scale scenario to meet statewide recycling demand, as determined by Akkuser.

While we haven't yet researched this extensively, a recent article in the New York Times[9] describes how household batteries are being shipped to Mexico for processing where the rules are less stringent and enforcement virtually nonexistent. Just south of our border, workers, residents, and the environment are being exposed to dangerous levels of lead. According to the article, about 20 million batteries will cross from the U.S. into Mexico this year.

The third and ***final section*** of the white paper would recommend future actions such as developing a pilot project locally, applying for a grant for additional research, etc.

Recommendation

The TAC recommends that the Hazardous Waste committee postpone the scheduled analysis of Bay Area Hazardous Waste Trends (covering the 2010/2011 data) currently scheduled for FY 2012/13. Instead of conducting that analysis, the TAC recommends that staff, the TAC, and a consultant collaborate on developing the white paper outlined above. A key piece of the effort would be to work with stakeholders who could inform and advise the work as it proceeds. The TAC would present the Draft White Paper summarizing the results of our research, findings, and recommendations for future action at a Committee meeting in FY 2012/2013.

[9] Rosenthal, Elisabeth, December 8, 2011. Lead from Old U.S. Batteries Sent to Mexico Raises Risks. New York Times.