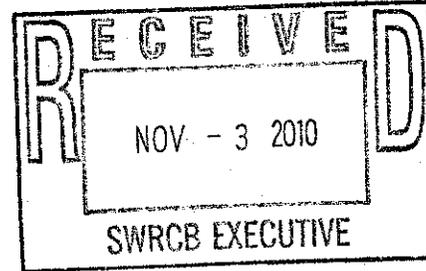




November 3, 2010

State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
ATTN: Ms. Jeanine Townsend, Clerk to the Board
Submitted via e-mail: commentletters@waterboards.ca.gov



Subject: Comment Letter – Policy for Controlling Trash in Waters of the State

Dear Ms. Townsend and Board Members:

On behalf of the California Product Stewardship Council (CPSC), I am writing to provide comments on the State Water Resources Control Board (State Water Board)'s proposed State Water Quality Control Policy for Controlling Trash in Waters of the State (Trash Policy).

CPSC is a California based non-profit comprised of businesses, local governments and their associations, individuals and others working with product manufacturers and partnering with them to encourage a stewardship approach to product management. Product stewardship is when the producer designs, funds, and operates collection and end-of-life management systems for their products or implements design changes to reduce the lifecycle impacts of that product or package.

The State Water Board has been tasked with an essential statewide role in preventing and controlling pollution and CPSC supports the development of a statewide trash policy. However, we are concerned that the current proposal misses the key issue of true source control which is the most cost-effective management tool. The following identifies CPSC's three primary comments and concerns with the proposed policy:

1. **Primary Focus Should be on True Source Control** - True trash source control is more cost-effective than building and maintaining trash control devices on every storm drain system. Working on true source control will also engage the people, organizations and corporations that are most essential for identifying and implementing creative and practical product design changes to reduce the trash water pollution problem. The old adage is true: an ounce of prevention is worth a pound of cure.

Example of True Source Control - SB 346 signed into law in September 2010 provides an example of true source control for the primary source of copper impairing water sources throughout the state. SB 346 requires brake pad manufacturers to reduce the use of copper to no more than 5 percent by 2021 and no more than 0.5 percent by 2025. A large percentage of copper pollution comes from brake pads therefore, the true source control is to reduce or eliminate the source of the copper. Instead of simply mandating it, the water pollution organizations collaborated with industry to identify a policy that all could agree on and SB 346 was a result of

those discussions. The same logic can be applied to other pollutants of the state's waters including trash.

2. **Accurate Data on Source and Composition of Trash** – CPSC believes it is the proper role of the State Water Board to sponsor research to better understand the litter problem leading to trash in the waters of California. This includes identifying what products are found in the water such as plastic bags, bottle caps, preproduction plastic pellets, takeout food containers, cigarette butts, beverage containers, etc... After having a clear understanding of what litter is in the water, the source of that litter must be determined to evaluate what can be done as true source control such as requiring the use of alternative, less polluting or biodegradable wrappers and containers, or implementing a product stewardship approach for product packaging as was outlined as a recommendation by the Ocean Protection Council (OPC) resolution adopted April 23, 2009.
3. **Extended Producer Responsibility (EPR)/Product Stewardship For Packaging** – Per the OPC recommendation to implement an EPR approach for packaging in California, the State Water Board needs to work in collaboration with CalRecycle and other appropriate state agencies to discuss the potential of statewide EPR packaging legislation that fully funds the end-of-life management of packaging and products that become ocean litter. The State Water Board in consultation with the other state agencies should initiate true trash source control by working with manufacturers and users of items that end up becoming sources of trash in the state's waterways. Such collaboration should identify alternatives for reducing priority litter and implement solutions that would be most effective at reducing litter at the source.

We hope that the State Water Board will take these comments into consideration. The State Water Board is at an important juncture on trash policy and CPSC encourages the state to look for a comprehensive and effective way to achieve true source control for trash by conducting the necessary research, collaborating with manufacturers and other stakeholders, and promoting projects and needed legislation to protect California's water quality. A true source control approach will also protect taxpayers and ratepayers from overly expensive and ineffective back-end "clean-up" approaches.

CPSC is ready to assist the State Water Board as it develops the policy to control trash in state waters as it relates to EPR for packaging and other products found in water. Please do not hesitate to call on our expertise as the policy is developed.

Sincerely,



Heidi Sanborn
Executive Director

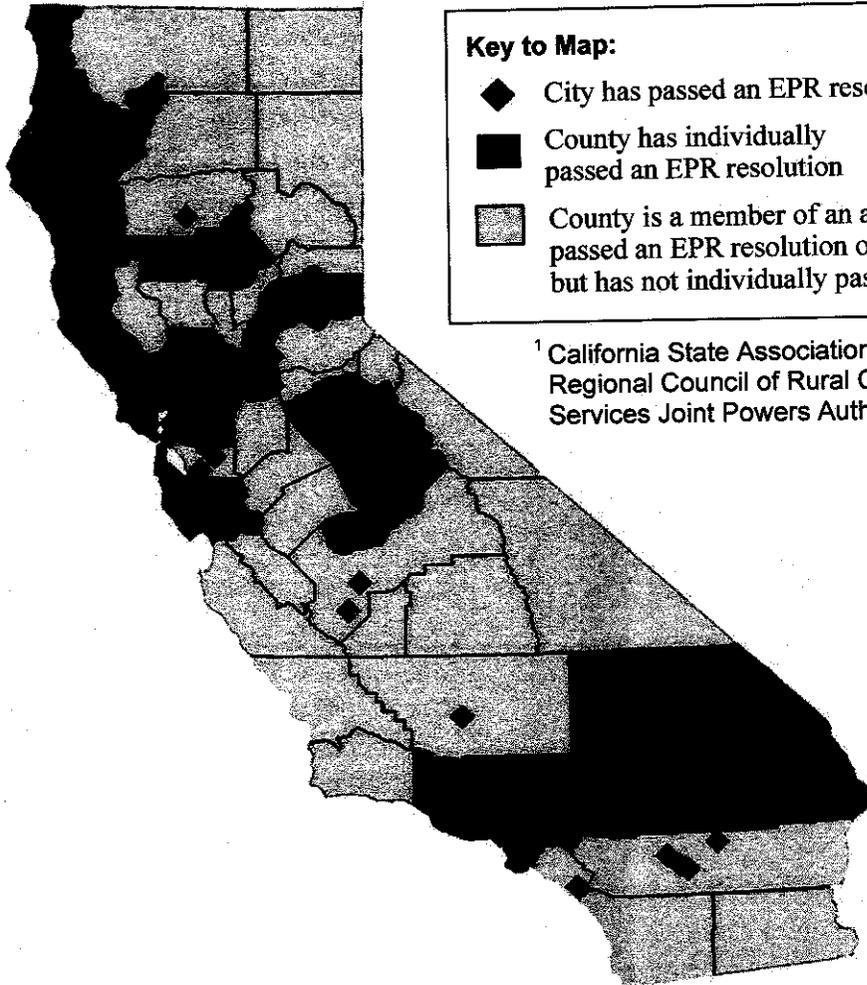
Attachments:

Who is CPSC
Framework Principles for Product Stewardship Policy



Who is CPSC?

Map of CPSC Associated Counties and Cities with EPR Resolutions (8/5/10)



Key to Map:

- ◆ City has passed an EPR resolution
- County has individually passed an EPR resolution
- ▨ County is a member of an association¹ that has passed an EPR resolution or policy statement, but has not individually passed an EPR resolution

¹ California State Association of Counties (CSAC) or the Regional Council of Rural Counties' Environmental Services Joint Powers Authority (ESJPA)

Local Government Agencies Participating in CPSC By Pledge or Resolution

Counties: Board of Supervisors or Countywide Agency (32)

- | | | | |
|----------------|---------------|------------------|--------------|
| • Alameda* | • Kern* | • Nevada | • Santa Cruz |
| • Amador* | • Los Angeles | • Placer | • Solano |
| • Butte | • Madera | • Sacramento | • Sonoma* |
| • Calaveras | • Marin* | • San Bernardino | • Tehama |
| • Contra Costa | • Mariposa | • San Francisco | • Trinity |
| • Del Norte* | • Mendocino* | • San Joaquin* | • Tuolumne |
| • Glenn | • Monterey* | • San Mateo | • Ventura |
| • Humboldt | • Napa | • Santa Clara | • Yolo* |

* Countywide agency other than Board of Supervisors

Mission: 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 that promote environmental sustainability.

City & Town Councils (78)

- Albany
- Amador City
- Arcata
- Arvin
- Belmont
- Burbank
- Calabasas
- Chula Vista
- Claremont
- Corning
- Cotati
- Covina
- Cupertino
- David
- Diamond Bar
- Dixon
- Dublin
- El Cerrito
- Elk Grove
- Eureka
- Folsom
- Fort Bragg
- Fortuna
- Fresno
- Glendale
- Healdsburg
- Hillsborough
- Huntington Park
- Indian Wells
- Larkspur
- La Puente
- La Quinta
- La Verne
- Lemon Grove
- Lincoln
- Los Altos Hills
- Los Angeles
- Los Gatos
- Millbrae
- Monrovia
- Monte Sereno
- Morgan Hill
- Mountain View
- Napa
- Nevada City
- Oakland
- Palm Desert
- Palm Springs
- Palo Alto
- Paradise
- Pasadena
- Petaluma
- Pittsburg
- Rio Vista
- Rohnert Park
- Roseville
- Sacramento
- San Dimas
- San Joaquin
- San Jose
- San Juan Capistrano
- Santa Clara
- Santa Cruz
- Santa Monica
- Sebastopol
- Sierra Madre
- Sonoma
- Sunnyvale
- Torrance
- Union City
- Vacaville
- Vallejo
- Vernon
- Walnut Creek
- West Hollywood
- West Sacramento
- Windsor
- Winters

Local Government Associations (30)

- Association of Bay Area Governments (ABAG)
 - Bay Area Hazardous Waste Mgmt Facility Allocation Comm.
 - San Francisco Estuary Project
- Bay Area Stormwater Management Agencies
- California Council of Directors of Environmental Health (CCDEH)
- California State Association of Counties
- California Stormwater Quality Association
- Central Contra Costa County Solid Waste Authority
- Coachella Valley Association of Governments
- Contra Costa Clean Water Program
- Delta Diablo Sanitation District
- East Bay Municipal Utility District
- Fresno Council of Governments
- League of California Cities
- Los Angeles County Integrated Waste Management Task Force
- Mojave Desert and Mountain Recycling Authority
- Rural Counties' Environmental Services JPA (ESJPA)
- Sacramento Business Environmental Resource Center
- Sacramento County Dept. of Water Resources
- Sacramento County Stormwater Quality Program
- Sacramento Regional County Sanitation District
- San Gabriel Valley Council of Governments
- Santa Clara County Recycling and Waste Reduction Commission
- Santa Clara Valley, CLEAN South Bay
- South Bayside Waste Management Authority
- Southern California Association of Governments
- Solid Waste Association of North America (SWANA)
- Tamalpais Community Services District
- West Contra Costa Integrated Waste Management Authority
- Western Placer Waste Management Authority
- West Valley Clean Water (Campbell, Los Gatos, Monte Sereno, Saratoga)



CPSC
California Product
Stewardship Council



Framework Principles for Product Stewardship Policy

The following principles are intended to guide development of product stewardship policies and legislation that governs multiple products. It is primarily aimed at state legislation but is also intended as a guide for local and federal policy.

1. Producer Responsibility

- 1.1 All producers selling a covered product into the State are responsible for designing, managing, and financing a stewardship program that addresses the lifecycle impacts of their products including end-of-life management.
- 1.2 Producers have flexibility to meet these responsibilities by offering their own plan or participating in a plan with others.
- 1.3 In addressing end-of-life management, all stewardship programs must finance the collection, transportation, and responsible reuse, recycling or disposition of covered products. Stewardship programs must:
 - Cover the costs of new, historic and orphan covered products.
 - Provide convenient collection for consumers throughout the State.
- 1.4 Costs for product waste management are shifted from taxpayers and ratepayers to producers and users.
- 1.5 Programs are operated by producers with minimum government involvement.

2. Shared Responsibilities

- 2.1 Retailers only sell covered products from producers who are in compliance with stewardship requirements.
- 2.2 State and local governments work with producers and retailers on educating the public about the stewardship programs.
- 2.3 Consumers are responsible for using return systems set up by producers or their agents.

3. Governance

- 3.1 Government sets goals and performance standards following consultation with stakeholders. All programs within a product category are accountable to the same goals and performance standards.
- 3.2 Government allows producers the flexibility to determine the most cost-effective means of achieving the goals and performance standards.
- 3.3 Government is responsible for ensuring a level playing field by enforcing requirements that all producers in a product category participate in a stewardship program as a condition for selling their product in the jurisdiction.
- 3.4 Product categories required to have stewardship programs are selected using the process and priorities set out in framework legislation.
- 3.5 Government is responsible for ensuring transparency and accountability of stewardship programs. Producers are accountable to both government and consumers for disclosing environmental outcomes.

4. Financing

- 4.1 Producers finance their stewardship programs as a general cost of doing business, through cost internalization or by recovering costs through arrangements with their distributors and retailers. End of life fees are not allowed.

5. Environmental Protection

- 5.1 Framework legislation should address environmental product design, including source reduction, recyclability and reducing toxicity of covered products.
- 5.2 Framework legislation requires that stewardship programs ensure that all products covered by the stewardship program are managed in an environmentally sound manner.
- 5.3 Stewardship programs must be consistent with other State sustainability legislation, including those that address greenhouse gas reduction and the waste management hierarchy.
- 5.4 Stewardship programs include reporting on the final disposition, (i.e., reuse, recycling, disposal) of products handled by the stewardship program, including any products or materials exported for processing.

Northwest Product Stewardship Council www.productstewardship.net Adopted May 19, 2008
California Product Stewardship Council www.calpsc.org Adopted June 4, 2008
Vermont Product Stewardship Council www.vtpsc.org Adopted November 6, 2008
British Columbia Product Stewardship Council www.bcproductstewardship.org Adopted Dec. 9, 2008
Texas Product Stewardship Council www.txpsc.org Adopted January 30, 2009
NYS Assoc. for Solid Waste Management www.newyorkwaste.org Adopted March 11, 2009



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