

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

Resolution 2007-189 (Revised)

Consideration Of General Extended Producer Responsibility Policy Options

WHEREAS, state government currently addresses products with problematic end-of-life management issues through a patchwork of product-specific or substance-specific legislation; and

WHEREAS, the costs associated with proper end-of-life management of these products with problematic end-of-life management issues is currently borne primarily by local governments which have neither the full responsibility nor the resources to adequately address the rising volume of discarded products, and whose programs are funded by general ratepayers rather than the producers and users of those products; and

WHEREAS, the Board currently lacks legislative authority to develop and implement mandatory Product Stewardship Programs to advance extended producer responsibility; and

WHEREAS, Public Resources Code Section 40050 authorizes the Board to promote the solid waste management hierarchy in order to reduce the amount of solid waste that must be disposed of by transformation and landfilling; and

WHEREAS, on February 13, 2007, the Board adopted Strategic Directive 5: Producer Responsibility, which states, "It is a core value of the CIWMB that producers assume the responsibility for the safe stewardship of their materials in order to promote environmental sustainability. Specifically, the CIWMB will:

- 1) Utilize existing Board authority to foster "cradle-to-cradle" producer responsibility;
- 2) Seek statutory authority to foster "cradle-to-cradle" producer responsibility;
- 3) Analyze the feasibility of various approaches to increasing producer responsibility, including during the product design and packaging phases, and make recommendations to the CIWMB Board by December 2007, and annually thereafter;
- 4) Build capacity and knowledge in CIWMB on extended producer responsibility (EPR) issues and solutions;
- 5) Develop and maintain relationships with stakeholders that result in producer-financed and producer-managed systems for product discards; and

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WHEREAS, at the June 5, 2007 Producer Responsibility Public Workshop, the Board directed staff to present the Board with general Producer Responsibility policy options and recommended products/product categories at its September Board meeting; and

WHEREAS, Board staff conducted research, analyzed, and evaluated various policy options and products/product categories for Board recommendation.

~~**NOW, THEREFORE, BE IT RESOLVED** that the Board hereby adopts the proposed Extended Producer Responsibility Framework approach as an overall policy objective (see Attachment 1 of this Agenda Item) and directs staff to:~~

- ~~a) Develop, through the annual legislative process, a legislative proposal for an overall EPR framework;~~
- ~~b) Continue implementing current voluntary Product Stewardship initiatives; and~~
- ~~c) Conduct further research and convene an advisory committee to determine and prioritize products for new product stewardship initiatives.~~

NOW, THEREFORE, BE IT RESOLVED that the Board hereby recognizes the need for State policy, using an Extended Producer Responsibility (EPR) Framework approach, to effectively reduce the cradle-to-cradle impacts of products and their packaging.

Furthermore, the Board adopts the EPR Framework presented in Attachment 1 as an overall policy priority to guide proposals to seek statutory authority and directs staff to: seek additional input from the broad stakeholders community on the Framework and the development of proposals for statutory change and return to the Board for further refinement, continue existing voluntary product stewardship initiatives, and conduct further research and convene an advisory committee to further examine the proposed methodology and determine and prioritize products for future new product stewardship programs for consideration by the Board.

CERTIFICATION

The undersigned Executive Director, or his designee, of the California Integrated Waste Management Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the California Integrated Waste Management Board held on September 19, 2007.

Dated:

Mark Leary
Executive Director

Attachment 1: Overall Framework for an Extended Producer Responsibility System in California

This document contains staff's recommendations for an Overall Framework for an Extended Producer Responsibility (EPR) System in California. If adopted by the California Integrated Waste Management Board (CIWMB or Board), staff envisions that this document, in addition to the Board's Strategic Directive 5: Producer Responsibility (<http://www.ciwmb.ca.gov/agendas/mtgdocs/2007/02/00021620.doc>) will guide further discussion and development of product stewardship programs in California.

To achieve Strategic Directive 5, Producer Responsibility, the CIWMB staff developed the proposed will seek legislation for an Extended Producer Responsibility (EPR) Framework Approach described in this document. This EPR Framework Approach would provide a comprehensive, yet flexible method for managing products that have significant impacts on the environment and serve as an alternative to the current piecemeal approach with many different laws and methods. ~~The CIWMB will seek an EPR Framework Approach~~ states that achieves stated policy goals and that is based on specified guiding principles, along with other key elements (described below).

The EPR Framework legislation is intended to guide proposals to seek statutory changes to provide the Board with the authority to develop and carry out state government roles and responsibilities, which This may include developing regulations using a public process, managing a process to select products and establish targets for product steward programs, and overseeing product stewardship programs with stakeholders that are customized for each product or product category. It would allow manufacturers flexibility in determining how to meet the established targets. However, it would not preclude the implementation or expansion of existing programs, nor would it preclude consideration of other approaches to end-of-life product management (such as for e-waste).

Key Elements of an EPR Framework Approach

Staff found that EPR Framework approaches have common key elements and, based on the analysis and stakeholder input, staff proposes these key elements:

1. Policy Goals
2. Guiding Principles
3. Definitions
4. Roles and Responsibilities
5. Governance
6. Products/Product Categories Covered
7. Program Effectiveness and Measurement

The sections that follow further describe staff recommendations for an EPR Framework Policy Goals, Guiding Principles, Definitions, Roles and Responsibilities, and

Governance (CIWMB Authority). The remaining elements would be further explored and addressed in legislation or in the development of regulations.

1. Policy Goals

Extended Producer Responsibility (EPR) is a policy approach that seeks to shift the primary responsibility for developing and/or participating in product stewardship programs that address the end-of-life (EOL) management of discarded products and materials from the general public and local government to producers. It would thereby incorporate the costs of product collection, recycling, and/or disposal into product price, and encourage product design, source reduction, and reuse so as to have a reduced impact on human health and the environment.

The goals of the EPR Framework, and any product stewardship programs that would be implemented under it, are to:

- Provide measurable net environmental benefits through product design innovation; improved environmental performance throughout a product's lifecycle, that includes reduced solid waste, toxic components, energy and water consumption, and reduced greenhouse gas and air emissions; and the highest and best use of products and materials in a cradle-to-cradle system; and avoidance of transferring EOL management problems to other states and countries.
- Advance green product design and the waste management hierarchy of source reduction and reuse, as well as proper collection and recycling where needed.
- Address all materials in the waste stream, both in terms of volumetric or toxic impacts in landfills, where practical, with consideration of life-cycle impacts.
- Design product stewardship programs to that maximize economic efficiency and market-based competition to stimulate innovation and reduce costs.
- Achieve a more equitable distribution of costs that reduces the burden on ratepayers and local jurisdictions and transfers waste-related costs to producers and consumers of products.

2. Product Stewardship Guiding Principles

Producer Responsibility

- All producers selling selected products into the state would be required to develop and/or participate in an approved stewardship plan that addresses source reduction, collection, transportation and environmentally sustainable reuse/recycling of covered products in the product design phase.
- Responsibility to physically and financially manage product end-of-life impacts shifts from general ratepayer and local government to producer and consumer.
- Responsibility is not shifted to other levels of government without consent.
-

- All brand-owners for a particular product category are subject to the same stewardship responsibilities, which encourage environmental performance by individual producers.

Environmental Protection Strategies

- Environmental protection strategies and resource allocation shift to an emphasis on increased prevention, source reduction, green product design, and reuse; with increased collection and recycling where needed.
- Environmental protection strategies strive to harmonized policies and programs by various levels of government while acknowledging and preserving the unique authorities and responsibilities of each to address environmental concerns.
- Strategies are designed to give government the flexibility to implement program improvements through administrative and regulatory processes.

System Coverage

- All consumers have reasonable access to product collection locations.

Results-Based Programs

- Programs focus on results and provide brand-owners with flexibility to determine the most cost-effective means of achieving the desired outcomes with minimum government involvement.
- Product categories are clearly defined to simplify compliance and enforcement and ensure common understanding among program participants.
- Programs are tailored for individual products and encourage continued innovation by producers to minimize environmental impacts during all stages of the product lifecycle, from product design to end-of-life management.
- Industry is accountable to both government and consumers for environmental outcomes and allocation of revenue from fees/levies.
- Program development process is open and provides the opportunity for input to all stakeholders.

3. Definition of Key Terms

- a) **Extended Producer Responsibility** In the Background Paper *Producer Responsibility: Overview of Policy Considerations* from the June 5, 2007 Strategic Policy Committee Meeting Workshop, staff presented various definitions of Extended Producer Responsibility, along with similar terms being used internationally.¹ Staff recommends the following definition:

¹ California Integrated Waste Management Board, *Producer Responsibility: Overview of Policy Considerations, Background Paper*, Prepared for the Strategic Policy Committee, June 5 2007, Pages 12-15. Available at: www.ciwmb.ca.gov/agendas/mtgdocs/2007/06/00022104.doc

Extended Producer Responsibility (EPR) is the extension of the responsibility of producers, and all entities involved in the product chain, to reduce the cradle-to-cradle impacts of a product and its packaging. The greatest responsibility lies with the producer, or brand owner, who makes design and marketing decisions.

This definition is similar to the definition used by the Product Stewardship Institute in recognizing a shared responsibility, but one that lies mostly with the producer. The reference to the product chain refers to suppliers, manufacturers, retailers, users and recyclers. EPR focuses on enhancing environmental benefits through improved product design for reduction and reuse, and increased collection and recycling where needed, without transferring end-of-life management problems elsewhere.

- b) **Producer** This term is fundamental to any discussion on EPR, yet it is challenging to define for all products. In order to have a common understanding of the term, staff offers the working definition below with recognition that a more refined definition would be needed for a product stewardship program that is focused on a particular product or product category. Product-specific definitions of the term producer need to be legally binding if all producers are to be held to the same ground rules.

Producer means

- i. **a person who manufactures a product and sells, offers for sale or distributes the product in California under the manufacturer's own brand**
 - ii. **if subparagraph (i) does not apply, a person who is not the manufacturer of the product but is the owner or licensee of a trade mark under which a product is sold or distributed in California, whether or not the trademark is registered, or**
 - iii. **if subparagraphs (i) and (ii) do not apply, a person who imports the product into California for sale or distribution.**
- c) **Cradle-to-Cradle Impacts** The term "cradle-to-cradle impacts" is referred to in the definition of "Extended Producer Responsibility" and staff believes it is beneficial to make it clear that EPR goes beyond advancing recycled content, the Board's traditional focus, but one that can lead to non-optimal environmental decisions. EPR is a comprehensive, rather than single-attribute approach, and consequently is more likely to result in the best environmental solution.

Cradle-to-cradle impacts include energy, water, and materials use; greenhouse gas and other air emissions; toxic and hazardous substances; materials recovery and waste disposal; and worker safety.

- d) **Product Stewardship Program** This is a term that is used by provinces in Canada and Board staff believes using the same term in California would be helpful to be consistent in our communications, particularly for those stakeholders operating throughout North America.

Product Stewardship Program is a program that encompasses product design for source reduction and reuse, as well as the collection, transportation, recycling, and disposal of unwanted products, including legacy products and the program's fair share of orphan products, which is financed as well as managed or provided by the producers of those products.

- e) **Stewardship Organization** Several terms are used to describe an entity that works on behalf of the producer to implement its responsibilities such as Third Party Organization (TPO), Producer Responsibility Organization (PRO), and Stewardship Organization (SO). Staff recommends using the term and definition below, which is consistent with what is currently being proposed in the state of Washington.

Stewardship Organization is a corporation appointed by a producer to act as an agent on behalf of the producer to administer a product stewardship program.

4. Roles and Responsibilities

Staff recommends that the following general description of roles and responsibilities for producers, retailers, consumers, state government, local government, haulers, recyclers, and advisory workgroups be used to help lay a solid foundation for an effective product management and stewardship system. These would be modified, as appropriate, when developing any ensuing product stewardship program. While there is a description in this for general responsibilities for California State government, Section 5 below delineates specific governance authority that would be needed for the CIWMB to develop and implement an overall producer responsibility program.

For each stakeholder group, staff identifies these types of responsibilities, where applicable.

- Product stewardship system effectiveness (oversight and continual improvement)
- Information needs/requirements
- Physical management of products and component materials (cradle-to-cradle)
- Financial management of end-of-life responsibilities

A. Producers' Responsibility: System Effectiveness, Informational, Physical, Financial

Whether established legislatively or voluntarily, an EPR approach to a specific product or product category places primary responsibility on the producers of that product to design and implement a program to achieve specified goals. Producers may use stewardship organizations (see *Definitions of Key Terms above*) to typically-administer recovery and recycling programs for specified materials. The membership of a stewardship organization can be entirely comprised of industry representatives, including manufacturers, distributors and retailers. Other stewardship organizations are multi-stakeholder organizations that include government representatives. Stewardship organization responsibilities usually include registering members, collecting fees from

members, managing a program fund, monitoring compliance and reporting on results. In cases where producers create and elect to participate in stewardship organizations, the ultimate responsibility is retained by the individual producers while the functions may be performed by stewardship organizations. Additional details about individual versus collective producer responsibility would need to be addressed in product-specific regulations, as needed, due to variations in product design, market structure, and potential public/environmental benefit.

System Effectiveness: Develop or use an approved stewardship plan for selected products. Plans would address product design, source reduction, collection, transportation and reuse/recycling of covered products considering lifecycle impacts and utilizing market incentives, as feasible.

Informational: Register covered products and provide effectiveness reports including performance and cost data to State government. Provide audited financial records for EOL management, when required, to justify cost recovery by stewardship organizations and maintain transparency and accountability to stakeholders.

Develop and distribute educational material to retailers for consumers on the safe use and storage of products, safe storage and handling of the residuals and containers, and the location of collection facilities.

Clearly communicate information about proper EOL management for haulers, collectors, recyclers, local government, etc. Typically this is accomplished through Material Safety Data Sheets (MSDSs), product labels, and websites that explain hazardous materials contained in the product and requirements for safe EOL management and recovery of the product.

Participate in good faith with governmental organizations and multi-stakeholder groups to continually improve product stewardship program.

Physical: Design products to reduce life cycle environmental impacts. Support environmentally preferable products and services through supply chain management decisions.

Ensure the collection and management of material from the consumer through a network of conveniently located collection sites. May choose to assign and oversee this responsibility through contracting directly with collectors, transporters, processors or through participation in a stewardship organization. All occupational health and safety and environmental standards must be met in either case.

Financial: Responsible for ensuring financial sustainability of end-of-life collection and management whether contracting directly or participating in a stewardship organization.

B. Retailers' Responsibility: Informational, Physical

Informational: Required to provide information from producers (or stewardship organizations on producers' behalf) to customers on how to access services.

Physical: Retailers only sell products that are covered (registered) in product stewardship programs where they exist.

Involvement in an EOL collection system is voluntary and may be compensated, as negotiated between producers and retailers.

C. Consumers' Responsibility: Physical, Financial

Physical: Responsible for following directions provided by producers including stewardship organizations, retailers, local government, and EOL service providers. Utilize provided collection services and do not dispose of products through illegal or non-preferred means.

Financial: Pay the costs of proper EOL management internalized in product pricing.

D. General California State government responsibility: System effectiveness, informational, financial

Several State government entities have responsibilities with respect to the state government role in developing a level playing field and providing oversight. These include the Legislature, Cal/EPA, CIWMB, and other relevant state level authorities.

System effectiveness: Establish statutory requirements (~~Legislature~~) and regulations (~~CIWMB~~) that provide the authority to mandate individual financial and/or physical take back of designated products; ban designated hazardous materials from use in products and/or landfill disposal; set minimum reuse, recycling and recovery rates; establish minimum environmental standards for ~~EOL management alternatives~~ (e.g., source reduction, collection, processing, and recycling, reuse/export).

Review and approve stewardship plans submitted by producers or by stewardship organizations on behalf of producers.

Implement EPR using guiding principles set forth in the Framework, including procurement specifications that encourage green product design.

Participate in multi-stakeholder collaborative efforts to provide net environmental benefits, including efforts to establish product performance standards.

Create a level playing field by ensuring ~~Responsible for ensuring~~ that all producers comply with the established requirements and that targets are being met.

Consider the appropriateness for a neutral third-party organization to administer many of these responsibilities. Responsibility ultimately lies with government to assure environmental protection goals are being met.

State procurement officials must only purchase products that are covered (registered) in product stewardship programs, where they exist.

Informational: Ensure public access to performance information and evaluations.

Financial: Seek reimbursement for oversight and enforcement services, perhaps through product registration fees. Penalties should be considered, if producers fail to meet the established requirements, or conversely, financial incentives may be offered for meeting or exceeding program requirements.

E. Local government responsibility: System effectiveness

System effectiveness: Local government procurement officials must only purchase products that are covered (registered) in product stewardship programs, where they exist. Local governments may choose to participate in informational, physical, and financial roles at their discretion according to the needs of their community and may require/negotiate compensation by producers or stewardship organizations.

F. Haulers' and collectors' responsibility: Physical, Financial, Informational

Physical: Meet standards or use best management practices for handling products and materials.

Financial: Receive compensation for services.

Information: Provide information to producers that can be used to design or label products to enhance recovery.

G. Recyclers', dismantlers', processors' responsibility: Physical, Financial, Informational

Physical: Meet standards or use best management practices for handling products and materials.

Financial: Receive compensation for services.

Information: Provide information to producers that can be used to design or label products to enhance recovery.

H. Advisory Committees' and Working Groups' Responsibility: System effectiveness, Informational

This category applies to advisory committees, scientific peer review panels, technical coordination or problem-solving groups, inter-agency management coordination and working groups.

System Effectiveness: Participate in the developed of regulations and the design of measurement metrics to help ensure transparency and accountability.

Informational: Advise State government on product or process-specific issues related to producer responsibility. Areas for contributions by technical working groups may include development of product performance standards, facility operation standards, and options to finance EOL management of orphan and historic waste.

5. Governance

Staff recommends that the Board ~~seek legislation that would provide the CIWMB with~~ the pursue statutory authority to develop and implement an overall producer responsibility program through a public process. This authority should include, but is not necessarily limited to, the following:

- Establish overall Producer Responsibility regulations;
- Subsequently dDetermine products or product categories to be included;
- Establish targets, measurement, and reporting requirements;
- Allow for coverage of new, historic, and orphan products;
- Allow independent and collective manufacturer programs;
- Establish plan submission and reporting requirements;
- Establish and collect penalties for non-compliance;
- Establish transparency and accountability mechanisms;
- Require use where appropriate of front-end financing mechanisms (e.g., point-of-manufacture or point-of-sale) as opposed to end-of-life fees;
- Require coverage throughout the state, both urban and rural, at a level necessary to meet performance standards;
- Require use of performance standards (may cover product performance, EOL management systems, and recycling/recovery facilities);
- Require adherence to the State's solid waste hierarchy or other mechanism to ensure products are managed for highest use or proper disposal if hazardous and not recyclable;
- Require best management practices for handling;
- Allow for the addition of new product categories in the future; and
- Require mechanisms/incentives to drive product design for environmental improvement (e.g., toxics reduction, greenhouse gas reduction).



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REGIONAL COUNCIL OF RURAL COUNTIES
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September 6, 2007

California Integrated Waste Management Board
Margo Reid-Brown, Chair and Board Members
Joe Serna Jr., CalEPA Building
1001 I Street, Byron Sher Auditorium
Integrated Waste Management Board
Sacramento, CA 95814

Re: Support for Staff Recommendations September Agenda Item #12

Dear Board Members:

On behalf of the California State Association of Counties (CSAC), and the Regional Council of Rural Counties (RCRC) we urge you to support the staff recommendation for Agenda Item #12, which would adopt the proposed Extended Producer Responsibility (EPR) Framework as an overall policy objective and direct staff to develop an associated legislative proposal, continue existing voluntary initiatives, and conduct further research to determine priority products for future new product stewardship programs.

Representing all of California's 58 counties, CSAC and RCRC support a product management system that instead of focusing on government and ratepayer financed waste diversion relies, instead, on producer responsibility. Increased producer responsibility would reduce public costs and drive improvements in product design, creating a movement towards more environmentally sustainable products and packaging.

CSAC and RCRC support an Extended Producer Responsibility Framework because it is the first step in a process which will serve to reduce waste from consumer goods and its impact on the environment. We believe that it is important to establish a process on the goals and guiding principles of product stewardship before selecting specific products. Additionally, CSAC and RCRC support legislative proposals developed through a transparent stakeholder process.

CSAC and RCRC appreciate your leadership on this important issue and look forward to working with you in the future.

Sincerely,

A handwritten signature in cursive script that reads 'Karen Keene'.

Karen Keene
Legislative Representative
CSAC

A handwritten signature in cursive script that reads 'Mary Pitto'.

Mary Pitto
Regulatory Program Director
RCRC

ALPINE, AMADOR, BUTTE, CALAVERAS, COLUSA,
DEL NORTE, EL DORADO, GLENN, IMPERIAL, INYO, LASSEN



MADERA, MARIPOSA, MODOC, MONO, NEVADA, PLUMAS,
SIERRA, SISKIYOU, TEHAMA, TRINITY, TUOLUMNE

CHAIR – BOB PICKARD, MARIPOSA COUNTY
VICE CHAIR – LAVADA ERICKSON, SISKIYOU COUNTY
EXECUTIVE DIRECTOR – GREG NORTON

PROGRAM MANAGER – MARY PITTO
TECHNICAL ADVISORY GROUP CHAIR – RANDY AKANA,
SISKIYOU COUNTY
TAG VICE CHAIR – BILL MANNEL, BUTTE COUNTY

June 26, 2007

Heidi Sanborn
R3 Consulting Group
4811 Chippendale Drive, Suite 708
Sacramento, CA 95841

RE: Review of R3's Report Titled "Framework for Evaluating End-of-Life Product Management Systems"

Dear Ms. Sanborn:

The Rural Counties Environmental Services Joint Powers Authority (ESJPA) is an association of 22 rural California counties created in 1993 to assist member jurisdictions in their ongoing efforts to implement environmentally sound waste management programs and to represent the interests of rural local government on key regulatory and legislative policy issues related to solid waste management. On behalf of its member counties, the ESJPA appreciates this opportunity to provide you with stakeholder comments on R3's Report titled "Framework for Evaluating End-of-Life Product Management Systems".

While the subject report may have been specifically designed to address various types of product management systems for "universal waste", it is our understanding that the report recommendations are also intended to provide a more generalized framework for the evaluation of end-of-life management systems for latex paint, for oil-based paints, and, also for other hazardous and non-hazardous products. The following comments are offered from this perspective.

It has been well documented that rural counties within California are disproportionately impacted by "premature landfill bans" that are peremptorily imposed without the prior establishment of an effective product recovery system. In rural counties, the environmental harm associated with these "premature landfill bans" is significant and the financial impact of such bans on local government can be crippling. Within rural counties, the unit costs for collecting and transporting "banned materials" are many times higher than comparable costs in more populous areas of the State. Rural jurisdictions simply do not have the financial resources to absorb these costs and, without subsidies, high gate fees (which must be sufficient to offset collection and handling costs) inevitably lead to the illegal disposal of hazardous materials on public lands and the accumulation of discarded materials on private property. When CRTs were first banned from landfill disposal without an adequate statewide plan for recovery, a high number of discarded computer monitors and television sets were dumped in some of the most pristine areas of our rural counties, polluting streams and compromising the scenic beauty of precious natural resources.

Based on this recent experience in dealing with CRTs and in consideration of our ongoing efforts to address “universal waste” and “waste paint” issues in an environmentally sound manner, the ESJPA supports advance statewide planning for the identification, collection, and recovery of all materials and products prior to any ban being placed on landfill disposal. The recent ban on the landfill disposal of all universal wastes and the continuing ban on paint disposal in landfills have been put in place without the establishment of effective product recovery systems. Given this situation, the ESJPA strongly supports the report recommendations that call for immediate implementation of mandatory producer-based programs designed to offset local government costs for material collection and handling and to increase product recovery rates. Local governments, as the primary collector of universal waste and waste paint, have been hopeful that voluntary efforts by industry would be sufficient to meet our programmatic and financial needs. However, after more than four years of dealing with the high costs of universal waste collection and handling, little or no significant progress has been made for most product types. Existing programs are not sustainable and they do not provide the infrastructure needed to support increased rates of product recovery.

More broadly, the ESJPA believes that the “model framework” as presented in the subject report provides a necessary and useful tool that will generally help to ensure the comprehensive development of workable systems for advance statewide planning for other material and product types. It is clear that considerable effort and thoughtful analysis went into the preparation of this report and the ESJPA is hopeful that the recommendations being put forward will receive positive consideration and provide a forum for continued input and discussion with local government and other key stakeholders.

We believe that the eight system “elements” identified in the report provide a useful and logical mechanism for evaluating alternative product management systems. From a local government perspective, however, we believe that a more detailed discussion and analysis of “Element No. 8—Program Operations” is necessary to further develop the model for specific material types and to provide a basis upon which to more fully evaluate the financial and operational implications of any proposed system on local government. For rural counties, with a widely dispersed and limited population base, the unit costs for material collection, transport, and public outreach can be extremely high relative to urban areas of the State. These costs need to be quantified and methods of cost recovery developed prior to program implementation.

While most rural counties would generally support a system that placed primary responsibility on the producer/retailer to implement a “take-back” program, the ESJPA recognizes that this is not always feasible depending on material/product type and other factors. If local government ends up being the primary entity responsible for collection of certain products or material types, the full costs for such operations need to be realistically addressed “upfront” so that consumers in rural counties do not end up “paying twice” for product recovery—first, through some type of advance disposal fee and, then again, for increased local gate fees that would be needed to offset any funding shortfall. If, on the other hand, producers or retailers assume a primary role for material collection programs, it is important that local government be provided access to these programs since, regardless of the collection model that is being followed, local rural governments (whether by design or not) inevitably end up being the “collector of last resort” for many businesses and consumers.

To address the need for a more detailed study of alternative "Program Operations", one of our member counties has suggested that Element No. 8 be broken down into the following operational subcategories:

- 8(a): Receipt from customers (whether intact, in parts, contaminated)
- 8(b): Processing/shipping methods for intact items
- 8(c): Processing/shipping methods for parts and contaminated or co-mingled items
- 8(d): Consolidation and material recovery processes
- 8(e): Marketing of recovered products/processing of residuals
- 8(f): Programmatic issues such as "green design", "green chemistry", re-design outreach and training; minimum content requirements

This further breakdown of the model is suggested in recognition of the fact that each of the identified operational aspects of system development will likely differ depending on material and product type and no one entity or single mix of entities will be appropriate for all itemized functions. Using fluorescent tubes as an example, local government currently has responsibility for the first three subcategories—receipt, processing, and shipping. Yet the central issues associated with the last three subcategories are clearly outside the reach of local government even though they are essential to overall system efficiencies. In this case, the failure to successfully implement all aspects of "Program Operations" has placed an undue financial and resource burden on local government.

The report appropriately recognizes the need to "take into account issues related to scale when applying the lesson learned from other programs to California". Cited issues include size, population, and the diversity of California. In raising this caution, the report was addressing the differences between California and other areas that were included in various case studies. The ESJPA believes that this "caution" needs to be applied not only to the application of other models to California, but also to the implementation of proposed systems within California. The most appropriate collection system for urban areas may not be effective within sparsely populated counties with limited access to consolidation centers or retail outlets. Even where similar systems can be implemented in both rural and urban areas, the costs and associated challenges can be strikingly different. While a full analysis of these differences is clearly beyond the scope of the report, the ESJPA believes that some acknowledgement of the need for a detailed and comparative analysis of the effectiveness of various systems throughout all regions of California is essential so as to avoid across-the-board imposition of an "urban model" on rural counties--unless it is demonstrated that such a model can be reasonably and cost-effectively adapted to fit the needs of rural California.

The R3 Report emphasizes the importance of establishing goals or other performance criteria to gauge program success. In doing so, however, it will be necessary to be sure that the quest to achieve numerical goals does not override the need for producer support of rural county programs. For example, a product category may have an interim goal of, say, 80% material recovery statewide by a specified date. This goal can be met most cost-effectively by focusing on collection and recovery efforts in major metropolitan centers while avoiding the establishment of more costly programs in rural counties where only 5 or 6% of the State's population is dispersed across 40% of the land area of California. Since all landfill bans are currently implemented on a statewide basis, regardless of geographic considerations, it is critical that any

product management systems be designed to ensure that product recovery programs are equally available to all Californians statewide and that adequate funding is available to offset costs to local government.

Because the future effectiveness of any management program is difficult to predict, the ESJPA supports the report recommendation that “flexibility should be built into any system to accommodate program evolution”. The report goes on to say that as “a collection system matures and collected product volumes increase, the efficiency of a System should also increase.” In recognition of this, the ESJPA would suggest that consideration be given to a “phase-in” approach for certain future “landfill bans” if established recovery systems are not sufficiently developed statewide so as to provide reasonably convenient access and cost-effectiveness in our rural communities. As a recovery system develops and when the associated collection programs can be more reasonably expanded to provide cost-effective collection throughout all areas of the State, landfill bans could, at that time, then be put in-place throughout all areas of California. This “phase-in” approach could help to reduce the initial start-up costs for certain product management systems and would avoid forcing rural county waste management systems to divert material for which no alternative recovery option is reasonably available.

While the R3 Report presents a useful conceptual basis for evaluating end-of-life product management systems, there clearly is a need for continuing discussion amongst stakeholders about how best to design and implement effective management systems for specific materials and for different product types. The ESJPA believes that the R3 report represents a major step forward toward this goal. The report presents compelling evidence that properly designed systems can, in fact, succeed and offers specific recommendations that can be realistically implemented—both in the short term and long range.

As with any complex system that involves a multiplicity of different interest groups, the ultimate key to success will depend on the cooperative and collaborative participation of all stakeholders—including local county and city government. With this understanding, the Rural Counties ESJPA, along with our individual member counties, looks forward to working with Cal EPA Boards and Departments on the future development of more detailed regulatory and legislative policy initiatives to help protect rural county resources and to promote cost-effective waste management programs that meet the needs of our local residents and businesses.

Sincerely yours,



Mary Pitto
ESJPA Program Manager

cc: ESJPA Member Counties