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To: ESJPA Board of Directors
From: Paul A. Smith, Senior Legislative Advocate
Mary Pitto, Program Manager
Date: May 20, 2010
Re: Extended Producer Responsibility – Legislative Items (**Action Item**)

Summary

This memo provides an update on legislation concerning efforts to impose extended producer responsibility schemes on a variety of products and requests ESJPA members to assess the level of involvement on each legislative item.

Background

Last year, the RCRC Board of Directors adopted language in its “Policy Principles” addressing extended producer responsibility. It is as follows:

Extended Producer Responsibility. RCRC supports producer responsibility for financing and arranging the collection and recycling of their products at end-of-life. Producer responsibility removes the financial burden from local governments and makes recycling become a cost of doing business. Placing the responsibility with manufacturers/retailers will additionally provide incentive for products to be redesigned in a manner to eliminate or reduce their impact and to increase their recyclability. RCRC prefers producer responsibility through product take-back by the manufacturers/retailers. RCRC will consider the reasonable use of Advanced Recycling Fees and Advanced Disposal Fees.

Issue

Since last year, the Legislature has considered several bills that impose some form of extended producer responsibility. They include:

AB 2347 (Ruskin, 2008) requires thermostat manufacturers to establish a mercury-added thermostat collection and recycling program. The bill was signed into law – RCRC Supported.

AB 283 (Chesbro, 2009) creates the California Product Stewardship Act of 2009, which requires the Integrated Waste Management Board to administer an Extended Producer Responsibility program of product stewardship. The bill was held by the Assembly Appropriations Committee – RCRC Supported.

AB 1343 (Huffman, 2009) requires manufacturers of architectural paint to develop and implement stewardship programs to manage post-consumer paint. The bill passed the Assembly 48-29 and was held in the Senate Appropriations Committee – RCRC Supported.

AB 2176 (Blumenfeld, 2010) enacts the California Lighting Toxics Reduction & Jobs in Recycling Act, which establishes a producer responsibility program for mercury-containing lamps and a fee program for inefficient lamps. The bill is currently before the Assembly Appropriations Committee - RCRC has “no position.” A similar measure was vetoed by the Governor last year.

AB 2139 (Chesbro, 2010) establishes the California Product Stewardship Act, which creates a Product Stewardship Program of extended producer responsibility and identifies three products subject to the act - home-generated sharps, pesticides and non-refillable propane cylinders. AB 2139 is pending before the Assembly Appropriations Committee – RCRC Supports.

SB 1100 (Corbett, 2010) creates a product stewardship program for household batteries. The bill awaits consideration on the Senate Floor – RCRC Supports.

AB 2398 (Speaker Perez, 2010) establishes an extended producer responsibility program for carpets. AB 2398 is pending before the Assembly Appropriations Committee – RCRC has “no position.”

We would like to have a general discussion about the ESJPA's position with respect to the EPR legislation. It is clear that the ESJPA supports EPR, but is there a level of discretion as to which ones we support and our level of effort? Should we prioritize bills that include products that are household hazardous waste (HHW). Should we carefully consider our involvement with ones that include products that are not HHW? For example, AB 2398 imposes EPR for carpet. Staff has received mixed responses to this bill as to whether it is beneficial to our counties. Some of our landfill operators do not support this bill and argue it can be extremely burdensome to industry in rural areas. Should we be sympathetic to industry, especially when the product is not HHW?

Staff Recommendation

Provide direction to staff as to our discretion in support of EPR bills and prioritization of level of efforts.