



LOS ANGELES COUNTY
SOLID WASTE MANAGEMENT COMMITTEE/
INTEGRATED WASTE MANAGEMENT TASK FORCE
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February 23, 2016

The Honorable Bob Wieckowski, Chair
Senate Environmental Quality Committee
State Capitol, Room 2205
Sacramento, CA 95814

Dear Senator Wieckowski:

**ASSEMBLY BILL 45 – OPPOSE
SOLID WASTE: HOUSEHOLD HAZARDOUS WASTE**

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) **OPPOSES** Assembly Bill 45 (AB 45), as amended on January 21, 2016, for a multitude of unworkable issues expressed in this letter.

Among other things, this bill would:

- Require the Department of Resources Recycling and Recovery (CalRecycle) to develop one or more model ordinances for a comprehensive program for the collection of Household Hazardous Waste (HHW). Unfortunately, the definition of a “comprehensive program” within the bill is **not comprehensive** at all, as it is only reflective of approaches supported by industry. The bill completely disregards the recommendations enumerated in CalRecycle’s AB 341 Report to the Legislature that recommends an Extended Producer Responsibility (EPR) strategy for managing HHW. Further, the proposed legislation has failed to recognize that pursuant to the State Law (the California Integrated Waste Management Act), each local government has already prepared and adopted a HHW Element which has been approved by CalRecycle. As required by CalRecycle, a HHW Element identifies program(s) for the safe collection, recycling, treatment, and disposal of hazardous wastes generated by households. Thus, jurisdictions across the state have developed comprehensive ordinances to collect and manage HHW, each tailored to the needs of their respective community. The Task Force questions the need for a HHW model ordinance when locals are required to have them in place already.
- Redefine and expand the definition of HHW, to include pharmaceutical and sharps/medical syringes, thereby placing an **unfunded** state-mandate on cities and counties. In Los Angeles County, the Countywide HHW Program (which

excludes individual jurisdiction program) already spends over \$10 million annually to manage the HHW Program. The Program is currently underfunded, and any expansion of the Program to include pharmaceuticals would significantly impact the effectiveness of the Program in meeting the needs of a population in excess of 10 million.

- Create a nonprofit organization to provide \$5 million to local governments throughout the state for 5 years, which would be **significantly insufficient** to make any progress in addressing the “extraordinary challenge” described in the findings and declarations of the bill. It has been estimated that local governments in California spend approximately \$100 million each year on HHW, which only addresses a small fraction of the total HHW generated.
- Place the full management and financial burden of pharmaceutical and sharps collection entirely on municipal government Statewide, while limiting industry’s role to simply communicating with consumers without specifying how that communication would be conducted.

Pursuant to the California Integrated Waste Management Act of 1989 (Assembly Bill 939 [AB 939], as amended) and Chapter 3.67 of the Los Angeles County Code, the Task Force is responsible for coordinating the development of all major solid waste planning documents prepared for the County of Los Angeles and the 88 cities in Los Angeles County with a combined population in excess of ten million. Consistent with these responsibilities and to ensure a coordinated and cost-effective and environmentally sound solid waste management system in Los Angeles County, the Task Force also addresses issues impacting the system on a countywide basis. The Task Force membership includes representatives of the League of California Cities-Los Angeles County Division, County of Los Angeles Board of Supervisors, City of Los Angeles, the waste management industry, environmental groups, the public, and a number of other governmental agencies.

Enclosed you will find an outline of the issues of AB 45 with more description, and if enacted, the legislation would substantially compromise the State’s broader objectives to achieve its 75 percent goals, provide the best and most tried methods of collection, and appropriately and proportionately share collection responsibilities between local governments and producers.

Additionally, as indicated in a letter addressed to the Assembly Select Committee on Waste Reduction and Recycling in the 21st Century regarding their November 4, 2015, Hearing on HHW and Cradle to Grave Producer Responsibility (enclosed), the Task Force continues to be open and eager to work with the legislature and the author on responsible and sustainable solutions to increase the diversion of HHW from landfills. The Task Force understands local governments cannot address this stream of waste alone. Partners in industry are needed, and EPR provides a perfect opportunity

The Honorable Bob Wieckowski

February 23, 2016

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to afford residents with the most convenient access for proper and sustainable collection of HHW.

Should you have any questions, please contact Mr. Mike Mohajer of the Task Force at MikeMohajer@yahoo.com or (909) 592-1147.

Sincerely,



Margaret Clark, Vice-Chair
Los Angeles County Solid Waste Management Committee/
Integrated Waste Management Task Force and
Mayor, City of Rosemead

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Enc.

cc: Speaker Pro-Tempore Kevin Mullin
Each member of the Senate Environmental Quality Committee
California State Association of Counties
League of California Cities, Los Angeles Division
California Product Stewardship Council
Each member of the Los Angeles County Board of Supervisors
San Gabriel Valley Council of Governments
South Bay Cities Council of Governments
Gateway Cities Council of Governments
Westside Cities Council of Governments
Each City Mayor and City Manager in the County of Los Angeles
Each City Recycling Coordinator in Los Angeles County
Each Member of the County Sanitation Districts of Los Angeles County
Each Member of the Los Angeles County Integrated Waste Management Task Force

**Enclosure to the February 23, 2016 Letter of the
Los Angeles County Solid Waste Management Committee/
Integrated Waste Management Task Force**

ARGUMENTS OPPOSING ASSEMBLY BILL 45 (AB 45)

- The bill's language prescribing "model ordinances" that limit the reach of local jurisdictions to affect meaningful Extended Producer Responsibility (EPR) ordinances is ostensibly indifferent to the decision of the U.S. Supreme Court not to hear a legal challenge against Alameda County's independently drafted pharmaceutical ordinance in 2012. The High Court's decision not to hear the case effectively affirmed the decisions of lower courts to uphold EPR ordinances requiring producers to assume a material role in the safe, responsible, and efficient, collection of pharmaceuticals and sharps. Alameda's ordinance has since prompted similar ordinances by five other counties across the State – San Francisco, San Mateo, Santa Clara, Marin and Santa Cruz. Santa Barbara County is currently at work drafting its own ordinance as well. To not include EPR in a "comprehensive" program is a blatant attempt to preemptively shape and restrict local government.
- This bill is counterintuitive to CalRecycle's adopted EPR framework, which outlines the appropriate role for producers and others in the system to go well beyond public education. Additionally, the bill discounts the findings highlighted in the AB 341 Report to the Legislature that recommends an EPR strategy for managing Household Hazardous Waste (HHW).
- The bill would redefine and expand the definition of HHW to include pharmaceutical and sharps/medical syringes, thereby placing an unfunded mandate on local jurisdictions. The bill primarily focuses on the responsibility of local government and compounds those responsibilities by adding this requirement to collect pharmaceuticals and sharps, which they are not currently required to do at present, as home-generated pharmaceutical waste is not considered hazardous in Federal or State Code. The Los Angeles County Countywide Program (excluding local government program) already manages a voluntary \$10 million dollar HHW Program that is underfunded to meet the HHW collection needs of its residents. Adding the requirement to collect pharmaceuticals and sharps will only compound this underfunded program.
- Although the bill would provide for the established of a nonprofit to distribute \$5 million in grants to local jurisdictions over 5 years for "specified household hazardous waste disposal," according to the California Product Stewardship Council (CPSC), each county would receive an average of \$17,241 (just over \$2,000 per city), a smidgen of the funding needed to fully and effectively address the problem. The \$5 million over 5 years is an insult to local government and is not consistent with the findings and declarations of the bill stating that HHW is an "extraordinary challenge."

- The bill places the majority of the responsibility on local jurisdiction, limiting industry's role to simply communicating with consumers without specifying how that communication would be conducted.
- The bill neglects to acknowledge the success of "tried and true" strategies proven effective in HHW management. One shining example of such a program is the State's paint stewardship program which has proven itself efficient, convenient, and equitable, in its management responsibilities.
- AB 45 remains staunchly opposed, Statewide, by local jurisdictions aware of its full long-term ramifications.
- The bill continues to be amended, and the amendments come last minute before a hearing while claiming they have addressed opposition/stakeholders concerns but never truly do. The amendments are a ploy to convince the legislature that the author is attempting to make the bill workable for local government.



GAIL FARBER, CHAIR
MARGARET CLARK, VICE - CHAIR

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January 4, 2015

The Honorable Richard Gordon, Chair
Assembly Select Committee on Waste Reduction and Recycling in 21st Century
California
P.O. Box 94849
Sacramento, CA 94249

Dear Assembly Member Gordon:

**COMMENTS ON NOVEMBER 4, 2015 HEARING: HOUSEHOLD HAZARDOUS
WASTE MANAGEMENT AND “CRADLE TO GRAVE” PRODUCER
RESPONSIBILITY (EPR)**

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) appreciates this opportunity to comment on the important topics of household hazardous waste (HHW) management and “cradle to grave” producer responsibility, also known as “Extended Producer Responsibility” (EPR). The Task Force appreciates the important work of the Assembly Select Committee on Waste Reduction and Recycling in 21st Century California (Committee) in creating a dialogue regarding these critical issues. To that end, the Task Force would also like to offer the following:

Pursuant to the California Integrated Waste Management Act of 1989 (Assembly Bill 939 [AB 939], as amended) and Chapter 3.67 of the Los Angeles County Code, the Task Force is responsible for coordinating the development of all major solid waste planning documents prepared for the County of Los Angeles and the 88 cities in Los Angeles County with a combined population in excess of ten million. Consistent with these responsibilities and to ensure a coordinated and cost-effective and environmentally sound solid waste management system in Los Angeles County, the Task Force also addresses issues impacting the system on a countywide basis. The Task Force membership includes representatives from the League of California Cities-Los Angeles County Division, County of Los Angeles Board of Supervisors, City of Los Angeles, the waste management industry, environmental groups, the public, and a number of other governmental agencies

The management of HHW is an expensive and resource demanding service for local governments. Despite these efforts, much HHW is still being disposed of in landfills. Manufacturers of HHW containing products, more than any other type of entity, are capable of addressing this problem. Elizabeth Wagner of the Department of

Resources Recycling and Recovery (CalRecycle) conveyed during her presentation at the Committee's November 4 Hearing, the State has long promoted the principle of EPR as a viable mechanism towards environmental sustainability. The former California Integrated Waste Management Board established Strategy Directive 5, which identified EPR as a core value for the State's landfill diversion efforts. CalRecycle, which replaced the Board, reinforced the support for EPR in the *Update on AB 341 Legislative Report* as a key concept for reducing the landfilling of difficult to manage products. CalRecycle further expressed its support for EPR in its *State of Recycling in California* report which was released in March 2015. It is clear to CalRecycle and we concur with their sentiment that local governments cannot keep up with the amount of HHW produced from products sold to California's consumers without some help from manufacturers of these products.

EPR simultaneously provides local governments relief from resource demanding programs while increasing the collection and proper disposal of items. Moreover, EPR affords residents with more convenient and safe access to properly dispose of items at the end of their useful life. A number of State legislative proposals to create EPR programs for HHW products such as batteries, sharps, and pharmaceuticals have been proposed in recent years but were not able to pass the legislature. Industry strongly opposed these EPR proposals which influenced their defeat. Unfortunately, some manufacturers of these difficult to manage products insist on spending millions to defeat such proposals rather than sharing in the responsibility to manage their own products at the end of their useful life. Fortunately, there have been EPR legislative proposals which have become law.

Assembly Bill 1343 (Huffman, 2010), which required the paint industry to develop an EPR program, has saved millions for jurisdictions across the State while collecting more paint than local government-ran programs were collecting before the Statewide program. The program's 2015 annual report identifies over 733 permanent collection sites throughout the State. Urban and rural residents have convenient access to properly dispose of unwanted paint as a result. Paint manufactures are now active participants in the management of their unwanted product while local governments are now able to utilize the savings provided through the EPR program for other essential services.

Consistent with these facts regarding the paint program, former director of the Department of Toxic Substances Control and current director of the Department of Environment for San Francisco, Debbie Raphael, pointed out during her presentation during the November 4th Hearing's first panel, that it is clear EPR programs work. However, despite EPR's successful track-record and CalRecycle's support for this proactive waste management approach, legislative proposals such as Assembly Bill 45 (AB 45, Mullin) would instead absolve manufacturers from responsibility by increasing mandates on local government. As noted above, HHW programs are highly expensive and local jurisdictions resources are already stretched thin.

The second panel at the Committee's November 4th Hearing was made up of industry representatives, two of them from very successful stewardship organizations which administer EPR programs (including California's paint program), and a third panelist who represented the Pharmaceutical Research and Manufacturers Association (PhRMA). Both stewardship organization panelists detailed collection data and program successes while the representative from PhRMA expressed the organization's support for AB 45 which for all intents and purposes is the antithesis of EPR. It was striking to hear the PhRMA representative explain that EPR would not work for pharmaceuticals despite the fact that numerous EPR programs encompassing home-generated medical sharps and pharmaceuticals around the world are very successful and are administered by many of the same pharmaceutical companies which are represented by PhRMA. It is also interesting to hear about their support for AB 45 for the reason that it encourages curbside service for increasing the rate of collection of HHW. Unfortunately, AB 45 fails to address that leaving pharmaceuticals on curbsides for pick-up would create numerous liabilities and in the case of controlled substances, which include many pain medications, would be against Federal law.

EPR for pharmaceuticals and sharps is the most sensible solution to address the issue before Californians. However, due to lack of proper action by State, numerous local jurisdictions around California have either enacted ordinances which require EPR ordinances for pharmaceuticals/home-generated medical sharps or are in the process of adopting such ordinances.

The November 4th Hearing's third panel, which presented the waste hauling industry's perspective, was also very compelling. Three representatives from the waste industry expressed their support for EPR, in particular support for Assembly Bill 1159, which was initially introduced by you. This bill, as you are well aware, would establish Statewide pilot EPR programs for the collection of batteries and sharps waste. Far too many solid waste industry employees are injured by sharps and other hazardous waste. Moreover, these representatives have seen the data from existing EPR programs and know that implementing an EPR programs for hazardous waste would reduce injuries in their industry. The Task Force supports AB 1159 and is hopeful it will be brought back for consideration and ultimately passed by the legislature in 2016.

Considering the State's robust recycling goal established under Assembly Bill 341 (Chesbro, 2011) much more solid waste is being sorted at facilities, thereby increasing the likelihood of injuries due to hazardous waste that is improperly disposed by residents and businesses. It is imperative to support measures which are effective at reducing these incidences. Local governments need partners to significantly decrease the improper disposal of HHW. It is time for manufacturers to take some responsibility for their products at the end of their useful life and Statewide approaches do this most effectively.

Assembly Member Gordon

January 4, 2015

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Again, the Task Force appreciates the Committee's work towards establishing a dialogue for these important issues and would welcome working with you, members of the Committee and involved stakeholders to formulate a sensible solution which works and most importantly is protective of public health, our environment and, needless to say, sustainable.

Thank you again for the opportunity to offer comments. If you have any questions, please contact Mr. Mike Mohajer of the Task Force at MikeMohajer@yahoo.com or (909) 592-1147.

Sincerely,



Margaret Clark, Vice-Chair
Los Angeles County Solid Waste Management Committee/
Integrated Waste Management Task Force and
Mayor, City of Rosemead

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cc: Each Member of the Assembly Select Committee on Waste Reduction and Recycling in the 21st Century California
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League of California Cities & its Los Angeles Division
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