



## Electronic Waste Management

# Stakeholder Input on the Implementation of SB 20

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The **Electronic Waste Recycling Act of 2003** (SB 20, Sher, Chapter 526, Statutes of 2003) requires CalRecycle and the Department of Toxic Substances Control ([DTSC](#)) to implement the various aspects of the law in coordination with a range of stakeholders.

Archives of "**California E-Waste Updates: An Electronic Newsletter**" are [available](#).

### Compilation of Stakeholder Input

The following table provides links to comments and questions compiled from ongoing stakeholder input. They are arranged by "Issue Areas" to provide a degree of organization. Note that this represents initial stakeholder input received at meetings and through correspondence, and is not part of formal regulation development.

Issue Area	Issue Description
<a href="#">Scope</a>	What devices or products are covered by SB 20?
<a href="#">Definitions</a>	
<a href="#">Fee Collection</a>	Issues relating to the collection of fees on covered products at the retail level.
<a href="#">Manufacturer Reporting</a>	Issues relating to information manufacturers are required to report annually.
<a href="#">Collection of Covered Products</a>	Issues relating to the collection of covered products.
<a href="#">Recovery and Recycling Payments</a>	Issues relating to payments made to organizations that collect (recover) and recycle covered products.
<a href="#">CIWMP Revision</a>	Issues relating to the requirement that local jurisdictions update their Integrated Waste Management Plans (IWMP) to include "e-waste" program activities.
<a href="#">Consumer Outreach</a>	Issues relating to informing consumers about collection and recycling of covered products.
<a href="#">Export and OECD Requirements</a>	Issues relating to requirements for exporting and requirements of the Organizations for Economic Cooperation and Development OECD).
<a href="#">Covered Product Labeling</a>	Issues relating to the requirement that manufacturers label their covered products.
<a href="#">State Agency Purchasing Criteria</a>	Issues relating to developing environmentally preferred purchasing
<a href="#">EU RoHS Regulations</a>	Issues relating to European Union (EU) Directive and the Restrictions on Hazardous Substances (RoHS)

**Please note:** Stakeholders will continue to have several options for providing input about the implementation of SB 20:

- In person during stakeholder meetings.
- By electronic mail to [ewaste@calrecycle.ca.gov](mailto:ewaste@calrecycle.ca.gov).
- In writing to CalRecycle, P.O. Box 4025, Sacramento, CA 95812-4025
- During regulation development.

**When submitting comments or questions**, please adhere to the following format:

- Identify yourself and affiliation.
- Specify what issue area of the law your comment or question pertains to.
- Clearly state your comment or question.

Provide any suggested resolution to the issue you have identified.

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**California Department of Resources Recycling and Recovery (CalRecycle)**



## SB 20 Implementation

### Stakeholder Issue: Scope and Definitions

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Listed below are comments received from stakeholders relating to the issue area of Scope and Definitions. Comments are received through stakeholder meetings and correspondence. Due to transcription and/or space limitations, the following may be paraphrased from the original comment received.

#### Comments/Questions (received as of March 17, 2004)

- How quickly will we (manufacturers) get an interpretation about what products are covered? How do we notify the retailer if we don't have the interpretation? What do we need to do by April 1?
- By Feb 04 for small quantity generators, anything with a plug is covered. How will SB 20 be a framework to deal with universal waste by Feb. 04--non-CRTs?
- Would we (local govt./landfill operator) be a recycler as well as a collector? Only for SB 20
- Hate to see local agencies impacted by such a narrow definition of 4- inch screen with universal waste requirements coming down the line. We need to keep it clear and limit to electronic devices.
- On behalf of manufacturers, want to create a financing mechanism so that we can know what our role is and what we need to do. Want to communicate with consumers and retailers. Want more meetings so we can figure this out together. Need to keep scope of products as clear as possible. Financing mechanism not waste management.
- What is the intent of the bill? I believe it was for TVs and computers not flat panels. We need to be clear. Not sure if this includes a laptop. Would this also mean palm pilots?
- This leaves you open to copiers – anything with a flat panel. Could include huge machines with tiny flat screens.
- Not sure how DTSC could make a distinction between the screen on the device and the device? The device is either hazardous or it's not--not just because of the screen would it be hazardous. May need clarifying legislation--Jan. 1
- All devices should be included
- Determine as soon as possible the number of units to be included in the program, if for no other reason than for budgetary concerns.
- Determine the size and type of units to be charged the "waste collection fee".
- Determine who can participate in the program by developing criteria for identification as an authorized collector or e-waste recycler.
- [Regarding] the definition of "covered electronic device" under 42463 (f) (2)—What is the current thinking about your interpretation and how is it aligned with the definition in 42463 (f) (1)? What to do with aftermarket products? Do they apply?
- Assuming characterizing the entire unit as one, would that unit then be reclassified out of the universal waste category or would it lapse into the CRT standards? Assuming the whole unit is regulated, what would occur is this unit is broken up into two pieces, how would it be handled?
- We (environmental organization) support the broadest definition possible of covered devices. We want to ensure that flat panel/flat screen devices are included and support interpretation that determines entire device is covered, not just screen.
- The Electronic Waste Recycling Act is intended to build and fund infrastructure to manage covered electronic waste from households not businesses. To keep stockpiles of covered electronics from business sources out of the new system please consider tagging retail devices different from wholesale devices or vice versa. It is not illegal for businesses to give or sell their devices to employees as gifts--transferring them from a business into a household. Although these devices were not purchased retail, and were not subject to the recycling fee there is risk that these devices could flood the system and result in financial shortfalls. To avoid this possibility please take actions such as a tagging program.
- RCRA states that it is the waste generators responsibility to determine if its waste is hazardous. However 42463 defines a "Covered electronic device" as a: cathode ray tube, cathode ray tube device, flat panel screen, or any other similar video

display device with a screen size that is greater than four inches in size measured diagonally and which the department determines, when discarded or disposed, would be a hazardous waste pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code. Does the department automatically determine these devices to be hazardous waste if the generator tests the waste and finds that it has a toxicity characteristic (TCLP exceeds the allowable threshold)? Is the generator relieved of its responsibility to test its waste?

- CalRecycle and the DTSC need to clarify whether or not local governments may charge a fee for collecting the items that will be defined as covered electronic devices. [conflict between 42472 (a) and 42472 (b)] (Santa Barbara Co.)
- We would interpret section 42477 (financial provisions) to mean that local governments would only be eligible for payments if they did not charge for the items defined as covered electronic devices. If they did charge for such electronic devices, then they would not be eligible to receive these payments. CalRecycle and DTSC need to clarify this issue.
- As SB 20 provisions clearly do not contemplate the inclusion of appliances within its scope, it is wholly inappropriate for CalEPA to draft regulations that identify home appliances as covered electronic devices. (Association of Home Appliance Manufacturers).
- Are refurbished products included? Need to define refurbished vs. new.
- Are products replaced under warranty or service contract – covered by the law?
- Is the sale of spare parts where the spare part is a monitor covered by the law?
- Where do printed circuit boards, e.g. boards from mainframes and small appliances, wind up?
- I know that the US is converting lead-based solders to non-lead solders, but how about China - from whom we buy most of the potential e-waste? Some of the "non-lead" solders are also very toxic, e.g. indium based. Shouldn't there be someone who investigates what component solder is used in each appliance or PCB?
- What all is included in the definition of "covered electronic device"? Is the fee aimed at CRT (cathode ray tube) devices only, or does the definition include LCD (liquid crystal display) devices, DLP (digital light process) devices, plasma screen devices?
- U.S. EPA's final rule on CRT's will conditionally exclude the display components of televisions and computer monitors targeted for recycling from federal solid waste regulations as of May 2004. Will this have any bearing on the SB20 rule, in that these devices / components might also be excluded/exempted under it?
- Is a washing machine and a dryer (two separate units) that have touch screens that measure 5" across are deemed Covered Electronic Devices (CEDs)? These are sold to consumers. Must DTSC first make a determination (as is the case with laptops and desktop monitors) that washing machines with touch screen panels are CEDs? Or, does each manufacturer have to make its own determination?

Every effort has been made to accurately reflect stakeholder input. Please direct any corrections or additional comments in alignment with guidance on the Stakeholder Input page.



## Electronic Waste Management

### Stakeholder Issue: Definitions [42463]

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Listed below are comments received from stakeholders relating to the issue area of **definitions**. Comments are received through stakeholder meetings and correspondence. Due to transcription and/or space limitations, the following may be paraphrased from the original comment received.

#### Comments/Questions (received as of March 17, 2004)

- [Regarding] the definition of "covered electronic device" under 42463 (f) (2)—What is the current thinking about your interpretation and how is it aligned with the definition in 42463 (f) (1)? What to do with aftermarket products? Do they apply?
- How quickly will we (manufacturers) get an interpretation about what products are covered? How do we notify the retailer if we don't have the interpretation? What do we need to do by April 1?
- RCRA states that it is the waste generators responsibility to determine if its waste is hazardous. However 42463 defines a "Covered electronic device" as a: cathode ray tube, cathode ray tube device, flat panel screen, or any other similar video display device with a screen size that is greater than four inches in size measured diagonally and which the department determines, when discarded or disposed, would be a hazardous waste pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code. Does the department automatically determine these devices to be hazardous waste if the generator tests the waste and finds that it has a toxicity characteristic (TCLP exceeds the allowable threshold)? Is the generator relieved of its responsibility to test its waste?
- We would assert that "covered electronic device" should include any CRT or CRT device as defined under the DTSC's existing emergency regulations. The whole unit should be considered and not just the screen. We believe a great amount of confusion would result if the interpretation were adopted that any device with a screen would be covered e.g. the screens from a palm pilot, a microwave oven, a DVD player. When DTSC's regulations that prohibit the disposal of all other electronic devices in landfills take effect in 2006, then perhaps, another law can be passed that will provide funding for the collection and recycling of these additional items.
- Define what "cost free" means.

Every effort has been made to accurately reflect stakeholder input. Please direct any corrections or additional comments in alignment with guidance on the Stakeholder Input page.



## SB 20 Implementation

### Stakeholder Issue: Recycling Fee [42464]

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Listed below are comments received from stakeholders relating to the issue area of **recycling fee**. Comments are received through stakeholder meetings and correspondence. Due to transcription and/or space limitations, the following may be paraphrased from the original comment received.

#### Sales Taxability of Covered Electronic Waste Recycling Fee: **Clarification**

The Board of Equalization Legal Office has updated its advice and determined that the Covered Electronic Waste Recycling Fee is NOT subject to the California Sales Tax. If the fee had been assessed against the manufacturer, distributor, even the retailer, it would have been included in the "total cost of the goods," and would have had to have been included in "gross receipts" subject to sales tax. Because the fee is assessed against the consumer, and "collected" by the retailer, it is not part of the cost of the goods, NOT part of gross receipts and is NOT subject to sales tax. Earlier advice to the contrary was based on an erroneous assumption that the fee was part of the cost of the goods. Please disregard previous advice on this subject and do NOT consider the fee subject to sales tax.

#### Comments/Questions (received as of March 17, 2004)

- What is the "first sale?" Definition. of consumer includes a business, when one of my manufacturers sells to a dealer, is that a first sale? We also have service providers and we need to consider this. Manufacturer and Internet sales--what is the procedure for remitting the fees?
- Will the fee be taxable? The items are taxable, are the fees? Significant implications to our stores--big scope of retailers. We need guidance on how and when to remit the fees--the closer you can get to BOE's sales tax collection system, the better. Break down timeline into working groups--i.e., retailers working with the public. Focus the participants at future workshops
- CIWMB has the authority to set actual recycling fee. The fee is not just for collection but also to operate a free/convenient system.
- Fee charged to manufacturers. This is charged to the consumer. Would the fee or reimbursement be adjusted based on location?
- If manufacturers use and buy their own products, does the fee apply?
- What type of information, from a retail level, must be captured and reported with the fee payment to the Board?
- When will the (consumer fee) reporting forms be available?
- When will the first (fee) deposit be due after the July 1, 2004 implementation date?
- Is the e-waste fee subject to sales tax?
- Are there any in-store signage requirements or print ad requirements?
- Is the E-Waste Fee to be listed as a separate item on the sales receipt?
- Does the fee have to be itemized on the sales receipt given to customers?
- Does the electronic waste recycling fee have to be charged to the customer, or can the retailer absorb the fee? It may be less expensive to absorb and pay the fee rather than go through the more expensive reprogramming costs.
- Will organizations currently exempt from paying sales tax, such as schools and churches, have to pay the fee?
- What level of specificity should manufacturers provide to retail partners on covered electronic devices? Is it sufficient to say "collect the fee on all computer monitors, both CRT and LCD" -- or should the letter specify model numbers? Are manufacturers required to send a similar letter each time a model of a covered electronic device changes slightly?
- The law doesn't specify any ongoing notification after this notice by April 1, 2004 -- does the manufacturer's notification responsibility to the retailer end after this task?
- Will the leasing industry be able to engage in discussions with BOE relating to collection of the fee on leases? As was noted at

the workshop on Feb. 6, there are special issues on what constitutes "first sale" that the leasing industry needs to participate in resolving. Discussions with BOE leading to resolution of these issues needs to include industry representatives.

- Is refurbished equipment subject to fees and if it goes back on the market multiple times is it subject to multiple fee payments?

Every effort has been made to accurately reflect stakeholder input. Please direct any corrections or additional comments in alignment with guidance on the Stakeholder Input page.

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California Department of Resources Recycling and Recovery (CalRecycle)



## **SB 20 Implementation**

### **Stakeholder Issue: Manufacturer Reporting [42465.2]**

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Listed below are comments received from stakeholders relating to the issue area of **manufacturer reporting**. Comments are received through stakeholder meetings and correspondence. Due to transcription and/or space limitations, the following may be paraphrased from the original comment received.

#### **Comments/Questions (received as of March 17, 2004)**

- Whether or not the companies will be able to meet (reporting) requirements through their trade association to protect proprietary info? Will these reports be able to be done collectively?

Every effort has been made to accurately reflect stakeholder input. Please direct any corrections or additional comments in alignment with guidance on the Stakeholder Input page.

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California Department of Resources Recycling and Recovery (CalRecycle)





## Electronic Waste Management

### Stakeholder Issue: Collection of Covered Products [see 42463 "definitions"]

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Listed below are comments received from stakeholders relating to the issue area of **collection of covered products**. Comments are received through stakeholder meetings and correspondence. Due to transcription and/or space limitations, the following may be paraphrased from the original comment received.

#### Comments/Questions (received as of March 17, 2004)

- To cancel a product, need manufacturers to identify their products.
- Based on the definition of consumer, which includes all businesses, are any products that we use going to go into that municipal system for businesses using their own manufactured products.
- This is something new, going to take more than simple collection systems. We have an opportunity to bring collection systems together. Simple, local government collection programs by themselves are not going to solve these problems. Everybody and anybody who wants to haul this stuff should be encouraged and rewarded.
- Can private industry continue to charge on and collect products as they do now? We'll need something that says we can do it.
- The Electronic Waste Recycling Act is intended to build and fund infrastructure to manage covered electronic waste from households not businesses. To keep stockpiles of covered electronics from business sources out of the new system please consider tagging retail devices different from wholesale devices or vice versa. It is not illegal for businesses to give or sell their devices to employees as gifts --transferring them from a business into a household. Although these devices were not purchased retail, and were not subject to the recycling fee there is risk that these devices could flood the system and result in financial shortfalls. To avoid this possibility please take actions such as a tagging program.
- Collectors should be authorized and given an authorization number like the curbside number for curbside recycling programs. Authorized collectors would collect listed items from the public or municipalities.
- This program needs time for practical application; recommend that the implementation date be delayed to July 2005 and also strongly recommend transferring implementing responsibility to the Department of Conservation.

Every effort has been made to accurately reflect stakeholder input. Please direct any corrections or additional comments in alignment with guidance on the Stakeholder Input page.



## SB 20 Implementation

### Stakeholder Issue: Recovery and Recycling Payments [42476 (a)]

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Listed below are comments received from stakeholders relating to the issue area of **recovery and recycling payments**. Comments are received through stakeholder meetings and correspondence. Due to transcription and/or space limitations, the following may be paraphrased from the original comment received.

#### Comments/Questions (received as of March 17, 2004)

- We (local govt.) hold collection events currently. We have an appointment system, extra staffing at event--more costs than just processing the equipment. Each event costs about \$15,000. If we apply for reimbursement, what is eligible?
- What are you going to include in determining your fee to come up with your fee schedule?
- Break fee into 3 parts i.e., transportation, collection and recycling. Transportation involves different parties and distances.
- How are the invoices going to be checked against actual materials collected?
- Does SB 20 apply to those that are exporting if they decide not to receive payments?
- Any thought to potential unscrupulous operators bringing CRTs into the state and trying to collect fees? How can this be prevented?
- Is there a cap on the fee? Who would get payments first?
- Please give special consideration to rural counties implementing bill. We have higher costs due to lack of infrastructure
- If we (local govt.) collect 1,000 CRTs in 2/04, can we get reimbursed or do we need to wait until July?
- We (recyclers) would like to be charged on a per pound basis as we are with the bottle bill.
- Plastics in these goods are very difficult to recycle. How do plastics in general fit?
- We (recyclers) need a formal dialogue between manufacturers and recyclers. Manufacturers say they can't release information because it's proprietary. This lack of info impedes progress. Manufacturers hide behind this veil and impede progress toward recycling
- Think it would be bad for recyclers to have to wait 90 days for payment. Would like to see 30 days.
- Payment system can't be specific to everybody – differences in services and locality. Don't prohibit access to system because they have to charge a little bit beyond what they receive from SB 20. Don't make eligibility case by case.
- Can local governments charge a recycling fee for CRTs?
- We (local govt.) are going to collect CRTs through our bulky waste program. When can we get reimbursed for that?
- Six million computer monitors in CA. Who will be reimbursed for the processing/handling of these?
- **Higher unit costs in rural jurisdictions.** The unit costs associated with the collection/receipt of materials from individual users, on-site material processing, equipment sorting, packaging, storage, and eventual transport to a designated recycling center - a location that will quite likely be distant from the rural county wherein the waste was generated - are disproportionately higher in rural counties. Low population densities invariably lead to higher collection costs; the limited economy of scale means higher processing, handling, and transportation costs; and, long distances and limited access to recyclers means higher transportation costs. (RCRC)
- At the Electronic Waste Stakeholder Workshop, a per-pound funding program was suggested. If a "per" unit/pound payment mechanism is developed, due to the higher per unit costs, it will be necessary to establish higher rates in rural areas to cover actual cost. Or, if a per capita payment program is adopted, a minimum amount for rural jurisdictions is suggested, as has been done in other state funded programs. (RCRC)
- **Timing of authorized collector payments.** As previously stated, some of our member counties currently charge fees for e-waste disposal. There is no implementation date specified in the Act as to when payments to "authorized collectors" will begin.

It is also unclear when local agencies will no longer be able to charge fees. In order to avoid suspension of any ongoing programs or financially compromising these agencies, we would like to suggest the regulations make these two activities/dates coterminous; local agencies should be able to continue charging their fees until such time the payments actually begin and are sufficient to cover all associated local government costs. (RCRC)

- **Funding for stockpile reduction** and illegal e-waste disposal programs. Many of our counties host one day “events” to encourage the disposal of stockpiled electronic waste. These events have proven to be a successful tool to encourage the disposal of stockpiled e-waste, but also incur additional costs for operation. Furthermore, many of our counties have vast amounts of public land that are subjected to illegal waste disposal. The ESJPA would like to ensure that the regulations provide funding to local jurisdictions to properly handle stockpiled materials and to maintain e-waste disposal clean up programs. (RCRC)
- CalRecycle and DTSC has the ability to request detailed recycling information through its invoice authority given in SB 20 in 42479 (a) Require recyclers to provide detailed (non-proprietary) information on the processing methods (crt to crt, lead smelting, or hazardous waste disposal) used in their recycling of the devices that they are invoicing for payment. And please make this info available on CalRecycle website such that the public may use the info to select services that match the recycling preferences desired.
- Reimburse on a per pound basis instead of trying to do it per unit. It will be very burdensome to count the number of monitors. It would be much easier to weigh the loads and submit weight tickets.
- The collectors would contract with a Certified Recycler based on their performance and cost to process the collected materials. Recyclers would charge the authorized collectors for their services and give the collectors a receipt that they receive a certain number of pounds of listed materials. The authorized collector would submit weight receipt to CalRecycle for reimbursement based on the number of pounds processed. Having this system of certification of the parties involved would lower the chance of fraud and misuse of the fees. Attached is a [flowchart](#) of this system.
- [Comments](#) submitted by Sonoma County Waste Management Agency on developing a flexible payment schedule include 10 Goals, a description of how money should flow (from the state, to approved recyclers to collectors) and a discussion of how the approach furthers the 10 goals presented.
- We currently charge \$16 per CRT item and \$16 up to 400 pounds for non-CRT equipment and small kitchen appliances. As a hypothetical situation, if CalRecycle and DTSC were to define covered electronic device to only include entire units containing CRTs and CRT devices, would we eligible to receive recycling payments only for those items defined as covered electronic devices? If so, then we assume that we would have to segregate the revenue that we received for the collection of non-CRT devices and small kitchen appliances from the CRTs and CRT devices. Is that assumption correct?
- All collectors should receive payments for collecting. Reject proposals to limit collections to "systems" as was mentioned at the meeting.
- Concerns that implementation will negatively affect rural communities by not providing full compensation for the cost of maintaining the legislated electronic waste collection and recycling facilities.
- Without a payment system favorable to rural communities, or the ability to charge additional fees for electronics recycling, local government will be left with a mandated service that has not been adequately funded.
- Give local governments the ability to charge additional fees to meet any financial shortfalls, as well as an advance payment to cover initial costs.
- We (local government) are looking toward using Household Hazardous Waste (HHW) funding to assist in funding e-waste programs, and suggest that HHW be the per capita base for SB 20 [payments]; giving each jurisdiction a baseline for their e-waste collections.
- All units that are dismantled and recycled should be reimbursable at the established rate.
- I agree that those who collect the CRTs (or CEDs) will hold the responsibility for appropriate dismantling and recycling of the units. Providing the funding to collectors will assure efficient, market driven services throughout the process. Collectors are responsible for these local programs now; help them keep these programs low-cost and convenient.
- Actual dismantling of the unit for recycling, not reuse, should be the requirement to qualify for reimbursement.
- Dismantling can occur anywhere, but needs to be verified in some consistent and responsible manner. State standards that local jurisdictions can point to in dealing with processors would be helpful.
- My concern is that the large recyclers can potentially squeeze out the traditional collectors and refurbishers. They take only that which has value and charge us for the rest, or require the collector to hold on to equipment or delay taking equipment.

Since the small collector does not have large warehouse facilities, the commodity must be sold at a discounted rate or, [the recycler] charges the collector a fee to accept the equipment. This can be a serious problem in areas where there are few recyclers or where recyclers do not want to split the payments. To prevent this potential problem [I suggest] adding wording such as: "A Authorized Recycler is required to accept any and all product from a Authorized Collector in a timely manner."

- Is an approved CRT glass crusher in the state of California automatically authorized as a recycler under the new SB20 bill?
- The recycler should be prepared to take all monitors and T.V. sets at a pre-established rate from the collector as there can only be an upside in value to the dismantling and CRT crushing, therefore the collector gets paid by the recycler even if the recycler chooses not to process.
- Last year we handled about 3,500 CRTs. At 60 pounds each, that would be 210,000 pounds. If you pay out \$0.30 per pound to recycle, \$0.15 per pound to collect and \$0.05 per pound to transport, that results in a cost of \$105,000. San Luis Obispo County has about 250,000 residents out of about 35 million residents in California or about 0.71 % of the state total. Based on our cost of \$105,000, a statewide cost to implement SB 20 would be about \$15 million per year. This is significantly less than the \$60 to \$80 million estimate provided by CalRecycle. This supports my recommendation to fully fund the recycling, collection and transport costs.
- As an authorized collector, the City has real concerns about the \$0.20 per pound fee paid to collectors. We want the total cost paid. We do not want to have to charge residents an additional fee after they have already paid a fee at purchase. The City feels the 20 - 28 is too low.
- Our principal concern is the higher unit cost in rural jurisdictions for the collection, handling, and transportation of the electronic waste to the recycler. An across-the-board per pound or per unit payment schedule does not address this issue. However, we understand that it may be necessary to begin this type of implementation initially in order to obtain the necessary data required to realize a more fair and accurate method in the future.
- There also needs to be recognition that, rural areas will need to continue to collect "supplemental" fees to cover the true cost of implementation until such time that total reimbursement is reached.

Every effort has been made to accurately reflect stakeholder input. Please direct any corrections or additional comments in alignment with guidance on the Stakeholder Input page.



## **Electronic Waste Management**

# **Stakeholder Issue: Revision of County Integrated Waste Management Plan (CIWMP) [41516. (b)]**

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Listed below are comments received from stakeholders relating to the issue area of revision of countywide/regional integrated waste management plans (CIWMP) [41516. (b)]. Comments are received through stakeholder meetings and correspondence. Due to transcription and/or space limitations, the following may be paraphrased from the original comment received.

### **Comments/Questions (received as of March 17)**

- How are we (local governments) going to meet the Household Hazardous Waste Element (HHWE) deadline when the DTSC has not set regulations yet? We have a basic idea of what we are planning to do, but if we need anything more definite, then won't we need to see some regs?

Every effort has been made to accurately reflect stakeholder input. Please direct any corrections or additional comments in alignment with guidance on the Stakeholder Input page.



## SB 20 Implementation

### Stakeholder Issue: Consumer Outreach [424652 (a) (2), and 42476(c)]

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Listed below are comments received from stakeholders relating to the issue area of **consumer outreach**. Comments are received through stakeholder meetings and correspondence. Due to transcription and/or space limitations, the following may be paraphrased from the original comment received.

#### Comments/Questions (received as of March 17, 2004)

- University/school district/large business is a large consumer. Hope we can establish partnerships.
- Please make as much information available as possible on the Web. Make sure that the information is available to everybody – especially information on products. Use a formal process.
- Notifications to consumers regarding programs – easy to do. Informing the retailers of the scope of products and fees will be more difficult – eliminate ambiguities. Some companies/retailers will be more aware than others. We need to work together on this one.
- Notification to HP consumers about free/convenient recycling. Where do we point them? We just want to be a conduit for information. Until we get that information, we're stuck
- Sales data does not correlate to a successful recycling program. Look at diversion from landfills. We (manufacturers) know people don't buy one and get rid of one at the same time. Let's look at the amounts recycled and diverted rather than sales.
- Looks like people are currently stockpiling. Look at what's out there in these stockpiles and based on those numbers, gauge success.
- Let's look at markets for the materials that are covered.
- In goal setting, important to estimate goals for historic waste and future waste. Measure of sales is the benchmark for measuring future waste. Goals for individual producers are not in the bill. Will be important to address this gap. Develop incentives to invite participation.
- Use Used Oil program as a model and give us (local govt.) the money to run our local programs.
- Have we (local govt.) looked into Internet and Out of State sales?
- Do you expect computer recycling companies to recycle the 65 million (?) computers that exist?
- Need enforceable goals. Rigorous goals.
- Currently no goals (are required) for individual companies. Are there creative ways to develop incentives for individual manufacturer recycling?
- **Funding for public education.** The ESJPA supports the suggestion made at the workshop that the money set aside for public education and outreach be made available to local jurisdictions in the form of grants. While recognizing the need for some statewide educational campaign, local jurisdictions, especially in rural areas of the State, are better able to tailor the education programs to the specific and unique needs of their residents. The success of a local collection program improves with a strong local, public educational and outreach program. (RCRC)
- require recyclers to provide detailed (non-proprietary) information on the processing methods (CRT to CRT, lead smelting, or hazardous waste disposal) used in their recycling of the devices that they are invoicing for payment. And please make this info available on the Boards website such that the public may use the info to select services that match the recycling preferences desired.

Every effort has been made to accurately reflect stakeholder input. Please direct any corrections or additional comments in alignment with guidance on the Stakeholder Input page.

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## **SB 20 Implementation**

### **Stakeholder Issue: Export [42476 (d) (e), 42476.5]**

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Listed below are comments received from stakeholders relating to the issue area of **export**. Comments are received through stakeholder meetings and correspondence. Due to transcription and/or space limitations, the following may be paraphrased from the original comment received.

#### **Comments/Questions (received as of March 17, 2004)**

- It is important that the State cancel a device at time of collection. Want to prevent collecting more than once. Will give better auditing on exports.
- The Basel Action Network (BAN) submitted written analysis of SB 20 export language. Review the [full analysis](#) to see their issues and concerns.

Every effort has been made to accurately reflect stakeholder input. Please direct any corrections or additional comments in alignment with guidance on the Stakeholder Input page.





## **SB 20 Implementation**

### **Stakeholder Issue: Labeling of electronic devices [42465.1]**

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Listed below are comments received from stakeholders relating to the issue area of **labeling of electronic devices**. Comments are received through stakeholder meetings and correspondence. Due to transcription and/or space limitations, the following may be paraphrased from the original comment received.

#### **Comments/Questions (received as of March 17, 2004)**

- Products should be identified with a seal or symbol if they are part of this program. The seal or symbol would indicate that the fee has been paid for this unit.

Every effort has been made to accurately reflect stakeholder input. Please direct any corrections or additional comments in alignment with guidance on the Stakeholder Input page.

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California Department of Resources Recycling and Recovery (CalRecycle)



## **SB 20 Implementation**

### **Stakeholder Issue: Purchasing criteria for state agencies [42475.3]**

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Listed below are comments received from stakeholders relating to the issue area of **purchasing criteria for state agencies**. Comments are received through stakeholder meetings and correspondence. Due to transcription and/or space limitations, the following may be paraphrased from the original comment received.

#### **Comments/Questions (received as of March 17, 2004)**

- As of the date listed above, no specific comments have been received on this issue.

Every effort has been made to accurately reflect stakeholder input. Please direct any corrections or additional comments in alignment with guidance on the Stakeholder Input page.



## **Electronic Waste Management**

### **Stakeholder Issue: European Union (EU) Directive**

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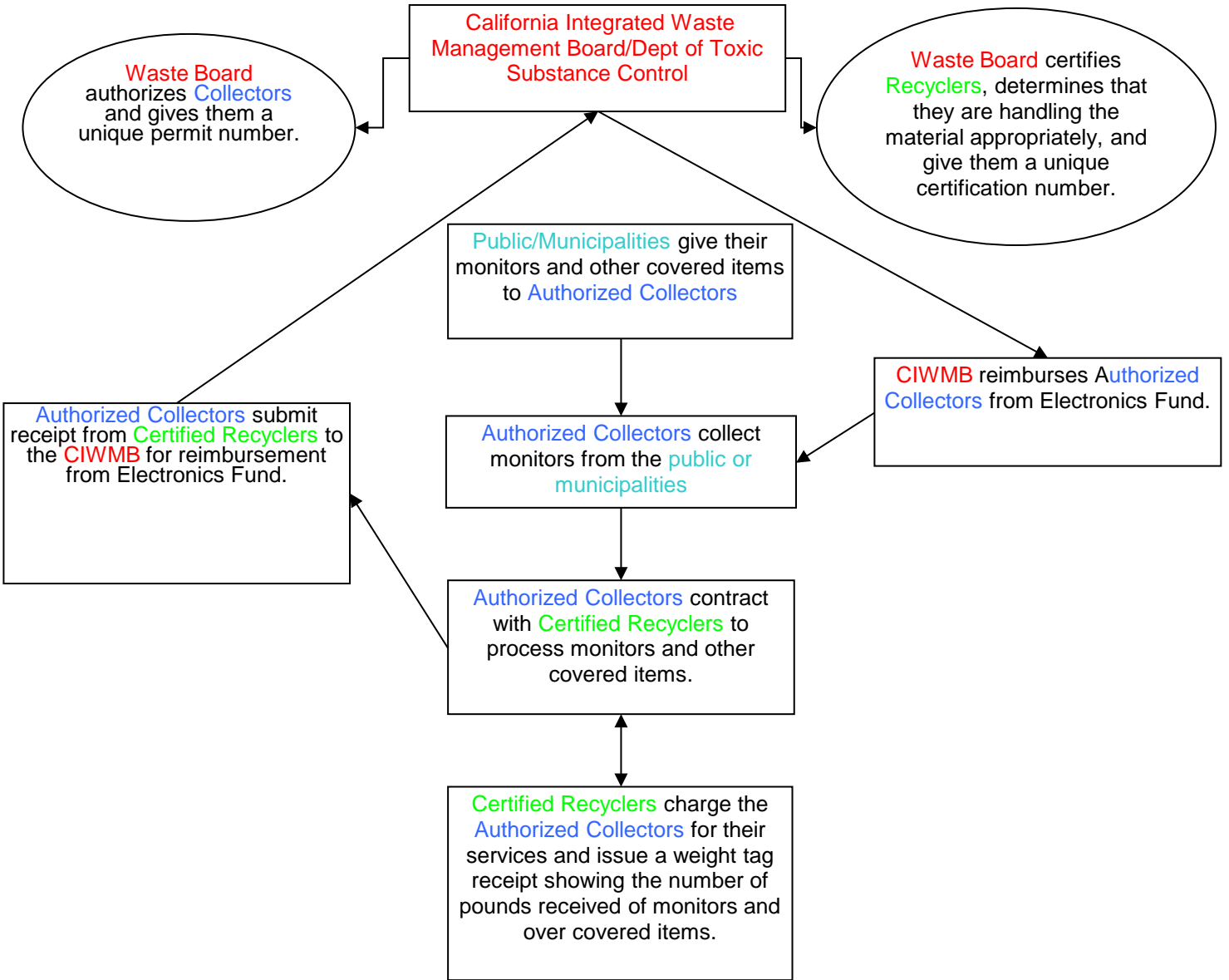
Listed below are comments received from stakeholders relating to the issue area of **the European Union (EU) directive**. Comments are received through stakeholder meetings and correspondence. Due to transcription and/or space limitations, the following may be paraphrased from the original comment received.

#### **Comments/Questions (received as of March 17, 2004)**

- Article 4 of the EU Directive 2002/95/EC RoHS of Jan. 27 2003 includes an exclusion for CRTs. Does CalRecycle or DTSC anticipate any covered electronic devices in the EWRA to be banned by the EU's Directive way? Could you clarify this, should Californians anticipate any CRT bans by the EU Directive or are the devices excluded? Is it CalRecycle's and DTSC's interpretation that laptops, or flat screen TVs (if determined to be hazardous waste) are not excluded by the EU Directive 2002/95/EC RoHS of Jan. 27 2003 and may be banned from sale in California if banned in the EU. ?

Every effort has been made to accurately reflect stakeholder input. Please direct any corrections or additional comments in alignment with guidance on the Stakeholder Input page.

# SB 20 Flowchart





November 24, 2003

Shirley Willd-Wagner  
Matt McCarron  
California Integrated Waste Management Board  
P.O. Box 4025  
Sacramento, CA 95812

RE: E-waste Recycling Payment Proposal

Dear Shirley & Matt:

After our conversation about the challenges of developing a flexible payment schedule for SB 20, I put some thought into the issue. Below is a proposal that hopefully addresses the issues you are grappling with. Please call me if you have any questions.

Goals:

1. Maintain a competitive E-waste recycling market without interfering with appropriate market forces.
2. Maintain flexibility in E-waste collection programs.
3. Maintain flexibility and innovation in the E-waste processing approaches.
4. Maximize potential collector (local gov't, charities, retailers, reuse/resale, etc.)
5. Minimize reporting and associated administrative tasks for collectors.
6. Minimize State cost for distribution and enforcement.
7. Eliminate potential fraud (e.g. making multiple payments per unit).
8. Minimize inappropriate exporting.
9. Accurately measure costs for payment (even if revenues are insufficient).
10. Simplify wherever possible.

Flow of Money:

State	!	Approved Recyclers	!	Collectors
		(must pass on 100% of payment to collector)		(defined as entity delivering E-waste to recycler)

Description: State pays Approved Recycles based on weight of material processed. Processor is obligated to pass on 100% of Recycling Payment to Collector based on weight delivered, and then may charge Collector whatever fee they deem appropriate for recycling of E-waste. The Recycling Payment will have a transportation multiplier based on the origin of the E-waste in relation to predetermined cities (cities to be determined based on population and industrial base). The purpose of the multiplier is to address the greater expense in transportation for rural communities. Recycling Payment may only be reflected as a credit towards fees due to Recycler upon a Collector's approval and must be provided in writing with appropriate signatures (a letter on file may be used in lieu of a signature for each delivery). Recyclers are required to provide Recycling Payment to Collectors within 30 days of delivery of E-waste.

Collector is defined as the entity that delivers E-waste to an Approved Recycler. If there are other entities providing material to the Collector delivering the E-waste, then distribution of Recycling Payment is to be arranged through contractual arrangements and is not the responsibility of State or Approved Recycler. Collectors may use Recycling Payments as they see fit to collect E-waste, allowing for complete flexibility in collection methodology. If a Collector's costs exceed the Recycling Payment, the Collector is responsible for additional expenditures. If the Recycling Payment exceeds the Collector's costs, Collector is not required to return any portion of Recycling Payment.

Pros:

1. Meets Goal 1 by leaving all the money in the hands of the collectors who are seeking services and can issue competitive bids.
2. Meets Goal 2 by allowing collectors to design their collection programs to meet local conditions and preferences.
3. Meets Goal 3 by allowing collectors to select any processing method, so long as the offering vendor has past State's recycler approval process.
4. Meets Goal 4 by placing no barriers on who is a collector and remaining entirely flexible about how the collection program is structured. It also eliminates the need for a collector to interact with the State bureacray, which can be preceived as difficult.
5. Meets Goal 5 by not requiring collectors report how payments are expended, justify recyclers selected or prove their E-waste was not exported. Collectors are not in a good position to track exports.
6. Meets Goal 6 by significantly limiting the number of entities to which the State will be distributing Recycling Payments.
7. Meets Goal 7 by distributing the recycling payments at the point at which the units are "canceled" through crushing, disassembly or partializing. The State will only have a handful of entities to audit to assure that an accurate number of tons have been processed and funds appropriately disbursed.
8. Meets Goal 8 by limiting the number of entities the State must regulate to enforce export requirements to a handful of approved recycles vs an unlimited number of collectors.
9. Helps with Goal 9 by not creating an artificial economic structure through the payments, which can complicate cost studies. Preserves a competitive marketplace, which can result in lower costs.
10. Meets Goal 10 by limiting the number of entities receiving Recycling Payments from the State and limiting the number of entities requiring audits. It keeps the money in one "group's" hands, Collectors, making establishing the Recycling Payment Schedule easier. It also utilizes the existing infrastructure and market forces without significant change.

I hope that assists in your efforts to implement SB 20. Please feel free to contact me if you have questions, 707-565-3687.

Sincerely,

KEN WELLS, DIRECTOR  
SONOMA COUNTY WASTE MANAGEMENT AGENCY

Lesli Daniel  
Household Hazardous Waste  
Program Manager

# Paragraph-by-Paragraph Analysis of SB 20 Export Language

Prepared by the Basel Action Network (BAN)  
Updated December 4, 2003

## Summary

SB 20 does not prohibit the export of hazardous electronic waste. Even worse, it is drafted in such a way that it actually allows the State of California to sanction such exports and to possibly even reward waste brokers for them, by allowing them access to the recovery fee imposed by the bill on consumers. The bill unfortunately does this by virtue of three gaping loopholes.

The first loophole is due to an ambiguity in the text that appears to require export obligations only on those participating in the program and wanting access to the fee generated funds. Thus, those wishing to conduct business-as-usual and not become part of the program might very well be able to continue to do so.

The second loophole, exempts almost all export criteria as long as it can be claimed that the wastes in question will be recycled into new electronic components in the foreign destinations. All wastes can be said to be available via the commodity markets for recycling back into electronic components and it is well known that the vibrant electronics industry in Asia will make this return to recycling products a likelihood. This loophole is said to be a mistake by the authors which they would like to correct but there are no guarantees that it will be.

Finally, were the above loopholes closed, there would still remain one devastating loophole and ugly precedent wherein the SB 20 provides that the State of California impose technology-based criteria generated by rich, developed countries for waste management guidelines, for those same developed countries, on developing countries. The referenced guidelines have been designed for use only within developed countries of the Organization of Economic Cooperation and Development (OECD), and are not, by their own admission, to be used to justify export to developing countries. These guidelines do not attempt to address the serious environmental justice and equity issues that are even more important than technological criteria for ensuring health, safety and justice for developing countries. This approach also flies in the face of the international community's decisions made in the Basel Convention which insist that no toxic waste for any reason should be exported from developed to developing countries.

For the noted reasons, elaborated further below, in addition the failure of the bill in other respect (e.g. lack of producer responsibility provisions) BAN believes that this bill is worse than no bill at all and should not be enacted into law.

## Paragraph-by-paragraph analysis

What follows is a paragraph-by-paragraph assessment of the efficacy of SB 20 language with regard to export.

### *Article 6 – Financial Provisions*

*...(4)(d) The board may not provide any payment for covered electronic devices unless the materials will be handled in compliance with all statutes and regulations regarding the export of hazardous wastes. No payment may be made for covered electronic devices exported to any country where the export import of hazardous waste is prohibited.*

The statement above appears to be redundant to the language of 42476 (e), except that 42476 (e) prefaces the setting forth of specific criteria for exporters in section 42476.5 . However, given that Section 42476.5, and indeed all of this language is part of the Article 6 "Financial Provisions" it logically follows that the restrictions it provides apply solely to recipients of payments from the Integrated Waste Management Fund ("IWMF"). An argument could be made that the reference to “any persons” in 42476.5 might serve as a stand-alone restriction on export for all citizens of the state, **it is likely that this section will be interpreted to mean that the export measures only apply to those persons accessing the fund and the only remedy the state has is to refuse such payment.** Regardless, as a practical matter, an effort to enforce the restrictions on non-recipients of funds would likely be futile.

The first sentence in the above paragraph is currently meaningless as there are no statutes and regulations operating in the United States regarding the export of hazardous wastes. BAN believes that an OECD Council Decision/Recommendation of 1986 should be operable and currently require “prior informed consent”, that is, all exporters must notify and receive consent prior to foreign export, however the EPA continues to claim that they don’t believe this is applicable. However it is possible that the EPA will propose new export restrictions on CRTs as part of their CRT rule next year. Presently though, the wording can only refer to the provisions found elsewhere in this article.

The second sentence is more to the point in that it states that it will not allow payment of funds to anyone that wishes to export to a country that has banned the importation of such wastes. China for example has banned the importation of electronic waste. However should somebody want to skirt this little problem and still receive the funds they can simply redirect the waste to a third location (e.g. another state or country), or they can try to just ignore the fee and send the waste directly to China in defiance of the Chinese import ban as many exporters presently do.



*(e) The board may not provide any payment for covered electronic waste unless the materials are handled in compliance with all statutes and regulations regarding the export of hazardous wastes, including, but not limited to, Section 42476.5.*

The statement above appears to be redundant but it prefaces the laying out of California export criteria in 42476.5. It also appears to want to cover in 42476.5, only those persons that will receive payment, not everyone in the state.

*42476.5. Except as provided in Section 42476.6, any person who intends to export covered electronic waste to a foreign destination shall comply with all of the following at least 60 days prior to export:*

First, there is the introduction of a gaping, massive loophole found in (42476.6) that makes this entire section, containing export criteria/statutes to be moot as **any waste that can be said to be destined for further use in electronic components (e.g. gold, lead, steel, plastics etc.) is exempt**. As Asia has a very vibrant electronics manufacturing industry, albeit not always environmentally sound, it can almost certainly be claimed that any electronic waste material will be recovered back into the electronics industry (see more on this below). Hopefully this loophole will be corrected at the earliest opportunity.

Here the reference to “any person” might seem to imply that anybody regardless of whether they get paid or not by the collection/recovery fee would need to follow this criterion. However, as this is under the chapeau of 42476 (e), which refers to those wishing to access payment, it is dubious that the bill intends to apply these criteria to all persons in the state. For that reason and due to the fact that there is no reference made to enforcement of this measure, it is likely that this section will be interpreted to apply only to those seeking recovery fees under the program and the punishment for non-compliance is denial of access to the fund.

If this section (a-e) was not so fraught with loopholes, that is, it applied to all covered electronic wastes, including those that might get recycled into electronic components, or applied to those not wishing to receive payment, then parts of it could have been useful to create a paper trail for exporters that could be checked up on.

*(a) Notify the department of the destination, contents, and volume of covered electronic waste to be exported.*

This, without the gaping exceptions, could have been useful information. required import and operating licenses shall be forwarded to the department. Such transparency is essential but is unfortunately circumvented too easily in SB 20. Even if the above noted loopholes are closed, it is very easy to avoid the reporting requirements by shipping to an out of state broker and allowing them to conduct the export.

*(b) Demonstrate that the importation of covered electronic waste is not prohibited by any applicable law or regulation of the country of destination and that any import is conducted in accordance with all applicable laws. As part of this demonstration, required import and operating licenses shall be forwarded to the department.*

This would have been the most useful element of all, as it would have precluded export to China. It also would have made it very difficult for any Basel non-OECD country to accept USA waste as there is a general prohibition in the Basel Convention against a non-Party (USA) trading with a Basel Party (almost all other countries of the world) unless a multilateral or bilateral agreement is in effect that is consistent with the Basel Convention. The USA possesses an export agreement with OECD states but not for non-OECD states. However, once again this criteria will not apply if there is recycling back to the electronics industry, or one wishes to ignore the possibility of receiving the recovery fee provided by the bill, or finally if one wishes to transship via third states or countries.

*(b) Demonstrate that the exportation of covered electronic waste is conducted only in accordance with applicable international law.*

This is not currently useful as according to the United States there is no applicable international law on exports of electronic wastes that apply to the US.

*(c) Demonstrate that the management of the exported covered electronic waste will be handled within the country of destination in accordance with applicable rules, standards, and requirements adopted by the Organization for Economic Co-operation and Development for the environmentally sound management of electronic waste.*

This is actually the most dangerous element of the bill as it attempts to apply extraterritorially, a set of technological criteria for environmentally sound management advanced by the OECD group of 30 most industrialized countries for downstream management of electronic waste and does so in violation of Basel Convention decisions and the principle of environmental justice. The OECD group has to date been very careful to ensure that these criteria are only meant to apply to the OECD and not used to justify export to non-OECD countries. Many OECD countries (e.g. all of 15 European Union states as well as Norway and Switzerland) have agreed that such export should be forbidden, regardless of technologies employed downstream. Now California has leaped into the fray and done what the OECD themselves were loathe to do – impose their standards to justify export to developing countries based on criteria that they (the developing countries) played no part in negotiating.

Further, the fundamental flaws of the OECD ESM approach is that these guidelines are:

a) devoid of environmental justice criteria, and

b) contain no linkage with upstream design issues.

The environmental justice omissions that in many cases are impossible to expect in developing countries include but are not limited to:

- Requirement of resources and ability for infrastructure to maintain and enforce technological standards
- Requirement of good enforcement of environmental or health standards
- Knowledge of environmental health and toxicity issues among workers and public
- Right-to-know legislation
- Ability to sue for damages
- Appropriate downstream hazardous waste management facilities
- law
- Trade unions to train and protect worker's interests
- Existence of occupational clinics and assistance, and medical expertise on occupational disease
- Right to protest and gain enforcement action
- from serious corruption problems with authorities

Additionally, the OECD technology based approach to ESM, is flawed as it fails to provide linkage between design issues that impact downstream impacts in a cause-and-effect relationship. That is, many of the downstream risks can only be addressed adequately by changing upstream design that prevents risk, rather than downstream efforts to mitigate imposed risk. An example of this is the fact that all smelting is going to be a hazardous problem as long as halogens are present in the waste stream due to their propensity to create dioxins and furans. However the OECD fails to mention that this design change is part of ESM management needs, despite the fact that smelting is a necessary means to recover metals and the industry can thus hardly avoid smelting and thus dioxin problems. They can however avoid adding halogens to the products and thus the waste stream but of course focus only on downstream issues ignores this fact.

Due to the text of this paragraph, it is very likely that the consumers of California, rather than taking responsibility for their own CRT waste, will, due to the powerful economic pull toward low-wage countries, end up funding the dumping of many of California's CRTs on a facility that is claimed to be technologically acceptable in a country that has not banned their import such as the Philippines. The workers and communities there will therefore asked to bear the toxic burden of Californian's waste. Meanwhile, industry will be provided with no incentive to clean up their act by producing less toxic products.

*(d) Demonstrate that the covered electronic waste is being exported for the purpose of reuse or recycling.*

This criterion is rather useless as this is always possible to state, regardless of the final outcome. As nothing can ever be recycled 100%, one can even state the CRTs can be exported for the recycling of the copper yokes and the leaded glass can be simply dumped as a recycling residue. Further, all of the horrors witnessed in Guiyu, China were clearly a result of recycling.

*42476.6. Section 42476.5 does not apply to a component part to a covered electronic device that is exported to an authorized collector or recycler and that is reused or recycled into a new electronic component.*

This is a most disgraceful and unfortunate stamp of export approval to California waste brokers that along with the limitation to program participants, adds insult to the injury of the other loopholes. It bears noting however that this language is deemed by Senator Sher to be a drafting mistake and a letter has been sent to be entered into the official journal of the State of California to have this mistake rectified in the next session. Unfortunately there is no guarantee that this correction will occur despite the good intent.

If the language is not corrected, because the paragraph includes the word "recycled" as well as re-use, virtually all waste can be easily claimed as being readied for being used after recycling in a new electronic component. This can include all of the horrific operations BAN witnessed in Guiyu, China. The caveat that the material must go to an authorized collector or recycler is no comfort as the criteria for demonstrating this via permits etc. has been erased with this paragraph and it is very easy to claim that the receiving facility in a developing country is authorized. Usually the receiver is a waste brokerage firm that can claim authorization and there exists no requirement to demonstrate this via submitted permits or state consent.

The worse thing about this paragraph is that it will perversely allow a program participant to collect the recycling fee imposed by the state on manufacturers, then turn around and sell, just as they have been doing, the electronic waste to an offshore Asian broker and in this way get paid at the front-end (ultimately by the well-meaning consumer) and, at the back end by the Asian broker and thereby continue export business as usual, but this time with the sanction and added profit provided by law. All the while they can ignore any of the reporting requirements found in 42476.5.

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