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SOLID WASTE MANAGEMENT COMMITTEE/
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August 3, 2020

Jason Smyth, Senior Environmental Scientist
Materials Management and Local Assistance Division
California Department of Resources Recycling and Recovery
P.O. Box 4025
Sacramento, CA 95812-4025

Sent via PharmSharps@calrecycle.ca.gov

Dear Mr. Smyth:

**COMMENTS ON SENATE BILL 212 SECOND DRAFT PROPOSED REGULATIONS
FOR 15-DAY COMMENT PERIOD, JULY 2020**

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) supports Senate Bill 212 (SB 212) Pharmaceutical and Sharps Waste Stewardship Program and is grateful for the opportunity to comment on this Second Draft (dated July 2020) in the Resources Recycling and Recovery Department of California's (CalRecycle) Formal Rulemaking process to finalize the Regulations Text.

<https://www.calrecycle.ca.gov/laws/rulemaking/pharmasharps>

As enacted in 2018, SB 212 requires "covered entities" to create a stewardship program, either individually or through a stewardship organization, and that the program plan must be approved by CalRecycle. The law expands upon much needed safe and convenient disposal options for home-generated pharmaceutical drug and sharps waste.

It is our understanding that after this Second Draft comment period, CalRecycle will proceed with final adoption of the regulations by the deadline of January 1, 2021.

As required by SB 212, the Stewardship Plans are due to CalRecycle by July 1, 2021, and Stewardship Organization(s) are to provide CalRecycle their first Annual Report by March 31, 2022.

The Task Force would like to offer the following comments regarding the subject Second Draft Proposed Regulations:

Article 4.

Section 18972.1(a)(11) Sharps waste container and mail-back materials at the point of sale, to the extent allowable by law.

In statute 42032.2(d)(1)(F)(i) it clearly states:

- (i) The program provides or initiates distribution of a sharps waste container and mail-back materials at the point of sale, **to the extent allowable by law.**

We respectfully request the removal of the language “or is not reasonably feasible”.
Second Draft Regulations:

(11) “Provides or initiates distribution of a sharps waste container” means one of the following:

- (A) To provide a sharps waste container and mail-back materials to the ultimate user, at the point of sale or prior, at no cost to the ultimate user; or,
- (B) To arrange, at the point of sale or prior, for a sharps waste container and mail-back materials to be sent to the ultimate user and arrive within four business days at no cost or inconvenience to the ultimate user; or
- (C) Other methods of providing a sharps waste container and mail-back materials, if the method identified in subpart (A) above is not allowed by law ~~or is not reasonably feasible~~, and if the method identified in subpart (B) above is not allowed by law ~~or is not reasonably feasible~~. These methods must be approved by the department in a stewardship plan and result in substantially the same level of convenience to the ultimate user as the methods identified in subparts (A) and (B) above.

There is no allowance in the statute for this primary convenience standard requirement to be compromised except for being limited by “to the extent allowable by law”. This convenience standard is of primary importance because the success of Extended Producer Responsibility (EPR) programs are greatly determined by convenience for end users. The inclusion of the language “or is not feasible” allows the stewardship organization an off-ramp that is not allowed by law and was specifically not included in the law. SB 212 was largely a negotiated compromise between industry and stakeholders and while industry insisted on a mail-back program only, stakeholders insisted on certain convenience standard provisions to ensure the success of the program.

Section 18972.2(j) and Section 189733(i) Education and Outreach.

The changes to the Education and Outreach sections for pharmaceuticals and sharps enhances educational and outreach in provisions of materials, signage, labeling, extensive internet and toll-free telephone number functionality, key metrics for evaluation, and coordination. These additions add comprehension and clarification of these provisions and will help to optimize awareness, increase user participation, and contribute to their success.

Section 18975, 18975.1, and 18975.2 Enforcement.

These sections pertain to the Criteria to Impose an Administrative Civil Penalty, Procedure for Imposing Administrative Civil Penalties, and the Procedure for Stewardship Plan Revocation, Resubmittal, or Additional Compliance Reporting. These provisions authorize CalRecycle to exercise sufficient corrective actions to achieve the success of the SB 212's EPR programs. The importance of the pharmaceutical and sharps management at end of life and the extensive stakeholder support for the development and implementation of these programs warrant that any failure to comply ought to be handled with sufficient penalties to ensure reasonable actions for success.

Conclusion.

Correcting convenience standards language regarding the sharps waste container and mail-back materials at the point of sale as indicated in this letter, the strong changes for medicines and sharps education and outreach, and CalRecycle's strong enforcement of implementation timelines and programmatic requirements ought to ensure the success of these vitally needed EPRs for pharmaceutical and sharps waste.

Pursuant to Chapter 3.67 of the Los Angeles County Code and the California Integrated Waste Management Act of 1989 (Assembly Bill 939), 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, waste management industry, environmental groups, the public, and a number of other governmental agencies.

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We respectfully request CalRecycle address these comments, concerns, and recommendations in the Regulations. If you have any questions regarding these comments, please contact Mr. Mike Mohajer, a member of the Task Force, at MikeMohajer@yahoo.com or at (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: Senator Jackson
Assembly Member Gray
Assembly Member Ting
California State Association of Counties
CalRecycle, Matt Henigan, Deputy Director
League of California Cities – Los Angeles County Division
Each member of the Los Angeles County Board of Supervisors
Sachi A. Hamai, Los Angeles County Chief Executive Officer
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 the County of Los Angeles
Each Member of the Los Angeles County Solid Waste Management
Committee/Integrated Waste Management Task Force