



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

Staff Report

August 18, 2009

Honorable Mayor and
Members of the City Council

Subject: Discussion Paper: Extended Producer Responsibility for Sharps Sold in the City of Sacramento

Location/Council District: All

Recommendation: Review and provide direction to staff regarding drafting an ordinance requiring all point of sales for sharps in the City of Sacramento to take back the sharps at their expense for consideration by the Law and Legislation Committee.

Contact: Marty Strauss, Integrated Waste Planning Superintendent, 916-808-4934

Presenters: Edison Hicks, Integrated Waste General Manager
Marty Strauss, Integrated Waste Planning Superintendent

Department: Utilities

Division: Solid Waste Services

Organization No: 14001711

Summary:

This report provides information and requests direction to staff regarding a city ordinance that would require all retail stores, hospitals and other points of sales for sharps in the City of Sacramento to take back the sharps at their expense.

August 18, 2009

Background Information:

Since September 2008 sharps have been banned from the disposal in the trash by state law. SB 1305, the bill that banned sharps from the trash, also defined home generated sharps as household hazardous waste, not medical waste. Home generated sharps are defined as disposable hypodermic needles, syringes, lancets, or other devices used for self injection or blood tests which have a sharp end on the tip. The new law also requires local jurisdictions to work with sharps generators to develop a disposal plan.

Per the County Health Officer, there are approximately 10,000,000 sharps generated per year in the City of Sacramento. This includes sharps generated by hospitals, doctors' offices, diabetics, veterinarians, etc. Of the total generated, only 232,000 sharps (2% of the total generated) were collected at the City's household hazardous waste facility for a total cost of \$25,147.46. This is a cost of approximately 9.2 cents per unit. If 30% of the sharps generated were captured at the household hazardous waste facility the cost would be approximately \$276,000 per year, a 61% increase in the current annual budget for the household hazardous waste facility.

To address this issue Solid Waste Services conducted a stakeholders workshop on January 29, 2009. At this meeting the attendees supported the City going forward with an ordinance requiring sellers of sharps to provide take back programs at their expense. Subsequent to the workshop staff met with the Hospital Council of Northern California where the possibility of meeting with hospitals and other medical groups to discuss their participation in resolving this problem. To date Solid Waste Services has been unsuccessful in meeting with the members of the Hospital Council.

Santa Clara County, City of Vacaville, City of Los Angeles, San Louis Obispo County and Santa Cruz County all have take back programs. Santa Clara County is moving towards requiring the point of purchase to take sharps back and San Louis Obispo County already requires all points of sale to take sharps back. The other programs are hybrids of private hospitals taking the sharps back at no cost to the customer and/or drop off programs paid for by the local government. In discussions with the program managers they are all planning to move toward requiring the point of purchase to take the sharps back at their expense.

Financial Considerations:

The cost to process and dispose of sharps is approximately 9.2 cents per unit. If 30% of the total number of sharps generated in the City are captured at the City's household hazardous waste facility the cost will be \$276,000 annually. This represents a 61% increase in the current annual budget for household hazardous waste.

Environmental Considerations:

Improper disposal of sharps creates a public health danger.

August 18, 2009

Policy Considerations:

The proper disposal of sharps through the point of purchase will provide a safe and convenient way for generators of sharps to safely dispose of home generated sharps.

Emerging Small Business Development (ESBD): NA

Respectfully Submitted by:



Marty Strauss
Integrated Waste Planning Superintendent

Approved by:



Edison Hicks
Integrated Waste General Manager

Recommendation Approved:


Ray Kerridge
City Manager

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**City of Sacramento
Department of Utilities
Solid Waste Services
Sharps Stakeholders
Discussion
January 29, 2009**





Regulations

- **As of September 1, 2008, Senate Bill 1305, prohibits a person from placing home-generated sharps in their trash or recycling containers.**
- **Home-generated sharps are defined as disposable hypodermic needles, syringes, lancets, and other medical devices used for self-injection or blood test, which may have a sharp tip or end.**



Regulations/The Law

- **Beginning on September 1, 2008, State law (Section 118286 of the California Health and Safety Code) makes it illegal to dispose of sharps waste in the trash or recycling containers, and requires that all sharps waste be transported to a collection center in an approved sharps container.**
- **Section 117671 of the California Health and Safety Code defines "home-generated sharps waste" as hypodermic needles, pen needles, intravenous needles, lancets, and other devices that are used to penetrate the skin for the delivery of medications derived from a household, including a multifamily residence or household.**



SHARPS CONTAINER

- **CA. Health & Safety Code, Section 117645. "Container" means the rigid container in which the medical waste is placed prior to transporting for purposes of storage or treatment.**



EXAMPLES OF SHARPS CONTAINER

Home-generated sharps waste shall only be transported in a sharps container or other containers approved by the enforcement agency.

Containers must be rigid, puncture resistant, unbreakable with a tight seal lid and leak resistant, labeled “Sharps Waste” or have an International Biohazard label (No glass jars or plastic milk jugs)

TYPES OF CONTAINERS



Drop box used in
Vacaville



Sharps Containers



COLLECTION POINTS

- **The law allows HHW facilities, medical waste generator facilities, and home-generated sharps consolidation points to collect and dispose of sharps. In addition, medical waste mail-back containers approved by CDPH may be used to properly dispose of sharps.**

NUMBER OF SHARPS GENERATED IN SACRAMENTO COUNTY



- **10,000,000 Sharps Generated In 2007 (County Dept of Health)**
- **232,000 Sharps Collected at HHW Facilities in 2007. (2.32% of Total Generated).**
- **Cost to Collect and Process \$25,147.96 or 9.2 cents per unit.**
- **Assuming 30% of Sharps Captured cost increases to \$276,000**



Disposal Options

- **Take Back.** Take back sharps to the point where purchased at no charge to the resident.
- **Mail it Back:** A convenient and confidential way of properly disposing your sharps. Sharps disposal services approved by the California Department of Health can be found at: <http://www.ciwmb.ca.gov/HHW/Sharps>
- **Take it to the HHW:** The following HHWs in the region will accept home-generated sharps.
 - **Sacramento Recycling and Transfer Station**
 - **8491 Fruitridge Rd. (916) 808-5454**
 - **North Area Recovery Station**
 - **4450 Roseville Rd. (916) 875-5555**



Take Back Programs

- **Santa Clara County**
- **City of Los Angeles**
- **San Luis Obispo County**
- **Santa Cruz County**
- **City of Vacaville**



Santa Clara County

- **County Hospitals Collection Points are paid for by the County.**
- **Kaiser pays for sharps collected at Kaiser**
- **Participating private pharmacies pay their own cost.**
- **County provided collection receptacles and identified medical waste contractors.**
- **LEA authorized pharmacies as collection points.**
- **Future direction is Extended Producer Responsibility through manufacturers.**



City of Los Angeles

- **Accepts sharps at the Solvents, Automobiles, Flammables and Electronics (SAFE) Facilities.**
- **Negotiating partnerships with pharmacies, health care facilities to accept sharps from residents.**



San Luis Obispo County

- **Through one-year state grant, sharps accepted at point of purchase.**
- **At end of the state grant funding, ordinance requires point of purchase to take sharps back.**



Santa Cruz County

- **Thirty drop off sites, including pharmacies.**
- **One year grant funding provides containers and medical waste hauler cost.**
- **Participating pharmacies signed participation agreements, but have not agreed to pay for cost when grant funding runs out.**
- **Stakeholder meetings scheduled to discuss long term funding.**



City of Vacaville

- **Drop off at no charge to two medical facilities for residents.**
- **Medical facilities pay cost of sharps collected.**
- **Sutter**
- **Regional Medical Foundation also has volunteered to provide red sharps**
- **Containers free of charge to residents.**
- **Sharps accepted at the City's HHW facility.**



City of Sacramento

- **Accepts home generated sharps at household hazardous waste facility for \$4.85 per pound.**
- **Encourages residents to take back to point of purchase or use mail back programs**



Discussion

- **What can the City of Sacramento do to make the collection of sharps more convenient for residents?**
- **Collection at pharmacies?**
- **Collection at point of purchase?**
- **Partnerships; City-Private Take Back Programs?**

THANK YOU FOR COMING.

**MARTY STRAUSS, INTEGRATED WASTE
PLANNING SUPERINTENDENT
CITY OF SACRAMENTO, SOLID WASTE
SERVICES**

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**San Luis Obispo County
Integrated Waste Management Authority
ORDINANCE NO. 2008-1**

**AN ORDINANCE ESTABLISHING A
HOUSEHOLD BATTERIES AND FLUORESCENT TUBES
MANAGEMENT PROGRAM**

The Board of Directors of the San Luis Obispo County Integrated Waste Management Authority ordains as follows:

Section 1. General Provisions

The San Luis Obispo County Integrated Waste Management Authority (IWMA) finds and declares all of the following:

(a) The purpose of this Ordinance is to have the IWMA, a joint powers agency established pursuant to Government Code Section 6500 and empowered by its member jurisdictions to exercise the members' common powers to achieve the mandates imposed by the Integrated Waste Management Act of 1989 (AB 939) on a regional basis, enact a comprehensive and innovative system for the proper and legal management of used household batteries and fluorescent tubes in San Luis Obispo County.

(b) The purpose of this Ordinance is to enact a law that establishes a program that is convenient for consumers and the public to return and ensure the safe and environmentally sound disposal of used household batteries and fluorescent tubes, and to provide a "no-cost" system for consumers for the return of used batteries and fluorescent tubes.

(c) The purpose of this Ordinance is to assure that the costs associated with the handling and disposal of used household batteries and fluorescent tubes are the responsibility of the producers and retailers of household batteries and fluorescent tubes, and not local governments or their service providers, state government, or taxpayers.

(d) The purpose of this Ordinance is to reduce the likelihood of the illegal disposal of hazardous materials, and it is the intent of this Ordinance to ensure that all costs associated with the proper management of used household batteries and fluorescent tubes are internalized by the producers and consumers of household batteries and fluorescent tubes at or before the point of purchase, and not at the point of discard.

(e) The purpose of this Ordinance is to assure that manufacturers and retailers of household batteries and fluorescent tubes, while working to achieve the goals and objectives of this Ordinance, should have the flexibility to partner with each other and with those private and nonprofit business enterprises that currently provide collection and processing services to develop and promote a safe and effective used household batteries and fluorescent tubes recycling system.

(f) The purpose of this Ordinance is to provide for the safe and convenient collection, reuse, and recycling of 100 percent of the used household batteries and fluorescent tubes discarded in the IWMA Region at no cost to the consumer.

(g) The purpose of this Ordinance is to recognize that there are significant environmental and human health impacts associated with household products that contain toxic ingredients, including mercury, lead, cadmium and other toxic chemicals, that when disposed of improperly, can contaminate the IWMA Region's environment.

Section 2. Definitions

For the purposes of this Ordinance, the following terms have the following meanings, unless the context clearly requires otherwise:

(a) "Household Batteries" means batteries used primarily for household and personal uses, including nickel-cadmium, alkaline, carbon-zinc, Li Ion, NiMH and other batteries generated as non-RCRA waste similar in size to those typically generated as household waste. "Household Batteries" does not include lead-acid batteries such as motor vehicle batteries.

(b) "Consumer" means a purchaser or owner of household batteries and fluorescent tubes. "Consumer" also includes a business, corporation, limited partnership, nonprofit organization, or governmental entity, but does not include an entity involved in a wholesale transaction between a distributor and retailer.

(c) "IWMA Region" means the geographic area that includes the unincorporated area of San Luis Obispo County, California and the seven incorporated cities within San Luis Obispo County.

(d) "Retailer" means any entity, including but not limited to, a person or business, of whatever form of organization, which sells to the general public household batteries, fluorescent tubes, or both, in the IWMA Region to a consumer, including a manufacturer of household batteries and fluorescent tubes who sells household batteries and fluorescent tubes directly to a consumer.

(e) "Distributor" means a person who sells household batteries and fluorescent tubes to a retailer.

(f) "Fluorescent tubes" (also referred to as "universal waste lamp") means the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste lamps include, but are not limited to, fluorescent tubes, compact fluorescent lamps (cfl), high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

Section 3. Household batteries and fluorescent tubes management

(a) Every retailer of household batteries, fluorescent tubes, or both, sold in this IWMA Region shall establish within the retail outlet a system for the acceptance and collection of used household batteries, fluorescent tubes, or both, for recycling or proper disposal. A retailer who sells household batteries is required to accept, collect and dispose of household batteries. A retailer who sells fluorescent tubes is required to accept, collect and dispose of fluorescent tubes.

A retailer who sells household batteries and fluorescent tubes is required to accept, collect and dispose of household batteries and fluorescent tubes.

(b) A system established by a retailer for the acceptance and collection of used household batteries, fluorescent tubes, or both, during the retailer's normal hours of operation, for recycling or proper disposal shall, at a minimum, include all of the following elements:

(1) A convenient location within the retail establishment for the "take-back" from the consumer of used household batteries, fluorescent tubes or both at no cost to that consumer.

(2) Appropriate signage, prominently displayed within 5 feet of any entrance to the retail establishment and easily visible to the consumer, indicating that the retail establishment accepts and collects used household batteries, fluorescent tubes, or both, from consumers. In the alternative, the retail establishment may place the recycling receptacle within 5 feet of any entrance to the retail establishment with appropriate signage indicating its location for consumer disposal of batteries and/or fluorescent tubes.

(3) An appropriate receptacle or receptacles for the collection of used household batteries, fluorescent tubes, or both, within the retail establishment.

(c) A retailer who is required to accept used household batteries shall at a minimum provide the following take back services:

(1) The take-back from the consumer of used household batteries that the retailer sold or previously sold to the consumer, at no cost to that consumer. In that event, the retailer may require proof of purchase of the prior sales. The retailer shall only be required to accept household batteries in an amount not to exceed the amount previously sold to the consumer.

(2) The take-back of used household batteries from a consumer purchasing batteries from the retailer, at no cost to the consumer. In that event, the retailer shall only be required to accept household batteries in an amount not to exceed the amount being purchased.

(3) The take-back from the consumer of used household batteries that the retailer did not sell or previously sell to the consumer, at no cost to that consumer. The retailer shall only be required to accept household batteries in an amount not to exceed 15 batteries per week per consumer from any consumer who resides in the IWMA Region.

(d) A retailer who is required to accept fluorescent tubes shall, at a minimum, provide the following take-back services.

(1) The take-back from the consumer of used fluorescent tubes that the retailer sold or previously sold to the consumer, at no cost to that consumer. The retailer may require proof of purchase. The retailer shall only be required to accept fluorescent tubes in an amount not to exceed the amount previously sold to the consumer.

(2) The take-back of used fluorescent tubes from a consumer who is purchasing new fluorescent tubes from that retailer, at no cost to that consumer. The retailer shall only be required to accept fluorescent tubes in an amount not to exceed the amount being purchased.

(3) The take-back from the consumer of used fluorescent tubes that the retailer did not sell or previously sell to the consumer, at no cost to that consumer. The retailer shall only be required to accept fluorescent tubes in an amount not to exceed 8 fluorescent tubes per week per consumer from any consumer who resides in the IWMA Region.

Section 4. Enforcement

(a) The IWMA may enforce the provisions of this Ordinance through a civil action for civil penalties in the amounts established herein, and any other civil remedy, including prohibitory and

mandatory injunctive relief, filed in the Superior Court for the County of San Luis Obispo to compel and enforce the provisions herein against any retailer within San Luis Obispo County who sells batteries, fluorescent tubes, or both, in violation of this Ordinance. In addition to any relief available to IWMA to enforce this Ordinance, the IWMA shall also be entitled to recover its reasonable attorneys' fees and costs incurred in enforcing this Ordinance.

(b) For any violation of this Ordinance, the IWMA may sue to recover civil penalties in the amount of \$1,000.00 per day for every day on which a violation exists. For purposes of calculating the civil penalties to be established hereunder, each day on which the retailer fails to comply with the requirements of this Ordinance, after having received a written notice of violation issued by the IWMA, shall constitute a separate offense.

(c) In addition to the civil relief available to the IWMA set forth above, any violation of this Ordinance shall also constitute a misdemeanor punishable under the laws of the State of California. The District Attorney, the County Counsel, or any City Attorney shall be authorized to enforce the provisions of this Ordinance within their respective jurisdictions. In the event of such criminal enforcement, the following criminal penalties apply to violations of this Ordinance:

(1) Violation as Misdemeanor. Violations of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a misdemeanor.

(2) The San Luis Obispo County Sheriff's Department and/or any other police department or law enforcement agencies located within the IWMA's jurisdiction may issue a Notice to Appear Citation for any misdemeanor pursuant to California Penal Code Section 853.6 for any violation of this Ordinance.

(3) Penalty for Misdemeanor. Any retailer found to be in violation of any provision of this Ordinance, or who fails to comply with any of its requirements, shall upon conviction thereof be punished by imprisonment in the county jail for not more than six months, or be fined not more than one thousand dollars (\$1,000.00), or by both. Each day such violation continues shall be considered a separate offense.

(d) To the extent that the County of San Luis Obispo, the incorporated cities, and the districts within said County have adopted code enforcement ordinances applicable to their jurisdictions, this Ordinance shall be enforceable by said governmental entities under said ordinances as land-use or code-enforcement violations consistent with said ordinances.

Section 5. CEQA Findings

The Board of Directors of the IWMA finds that this Ordinance is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines § 15061(b)(3) because "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." In addition, the Ordinance is subject to a Class 1 categorical exemption pursuant to CEQA Guidelines § 15301 in that the activities mandated by the ordinance will occur at existing retail establishments and, therefore, consist "of the operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.... The key consideration is whether the project involves negligible or no expansion of an existing use." The IWMA Manager is directed to prepare and file an appropriate notice of exemption.

Section 6. Severance Clause

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Governing Board of the IWMA hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Section 7. Effect of Headings in Ordinance.

Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

This Ordinance was introduced and the title thereof read at the regular meeting of the IWMA Board of Directors on March 12, 2008 and further reading was waived by a majority vote of those Directors present.

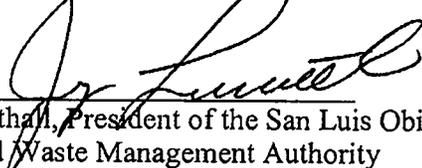
This Ordinance shall take effect and be in full force on and after thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days from the date of its passage it shall be published once with the names of the members of the Board of Directors voting for and against the same, said publication to be made in a newspaper of general circulation published in the County of San Luis Obispo.

On a motion by Director Gibson, seconded by Director Mulholland, the foregoing Ordinance was passed and adopted by the Board of Directors of the San Luis Obispo County Integrated Waste Authority, this (insert date), by the following vote:

AYES: Arnold, Ashton, Beraud, Brooks, DeMeritt, Ehring, Gibson, Hamon, Mulholland, Ovitt, Lenthall

NOES: None

ABSENT: Achadjian, Patterson

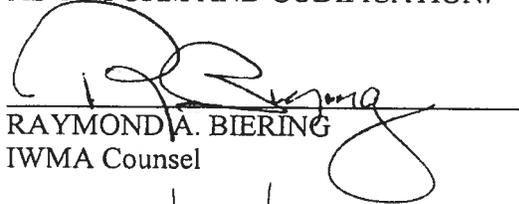


Jerry Lenthall, President of the San Luis Obispo County
Integrated Waste Management Authority

ATTEST:


Carolyn Goodrich, IWMA Board Secretary

ORDINANCE CODE PROVISION APPROVED
AS TO FORM AND CODIFICATION:


RAYMOND A. BIERING
IWMA Counsel

Date: 3/12/08