

ATTACHMENT 3

The project was originally scoped to allow for fifteen key stakeholders to review the draft Report and provide the contractor with feedback from major stakeholder groups prior to the report being finalized. The reason that stakeholder review was written into the project scope is because the CIWMB and contractor were keenly aware of the need for early input by the many stakeholders that future product management Systems will affect. The key stakeholders identified included all of the following: a large retailers that already collect u-waste and one that does not; rural and urban local governments; HHW collection company; solid waste collection companies large and small; environmental groups; a local enforcement agency; and recyclers and producers of u-wastes and paint. The importance of having the input of the stakeholders can not be overemphasized because without that input, the Report could potentially lack a perspective that is important to the future of Systems design. It was hoped to have all stakeholders submit comments, but only 8 of 15 stakeholders responded and some with only minimal responses. However, of those that responded, all want to be invited to participate in future efforts.

Of fifteen key stakeholders asked to comment, the following eight responded:

1. California Retailers Association (CRA): large retailers
2. Regional Council of Rural Counties (RCRC): rural local governments
3. Clean Harbors (CH): HHW collection company
4. Waste Management Inc. (WMI): large solid waste collection company
5. National Paint and Coatings Association (NPCA): paint producers
6. National Electronic and Electrical Manufacturers Association (NEMA): mercury lamp, battery, and thermostat producers
7. Kinsbursky Brothers Inc. (KBI): alkaline and rechargeable battery recycler
8. Association of Lighting and Mercury Recyclers (ALMR): mercury lamp recyclers

The following are the seven stakeholders that did not provide comments:

1. IKEA: Large retailer collecting u-waste
2. City of Los Angeles: urban local government
3. Californians Against Waste: environmental group
4. Product Stewardship Institute: environmental group
5. Santa Clara County: local enforcement agency
6. California Refuse Removal Council: small solid waste companies
7. Rechargeable Battery Recycling Corporation: rechargeable battery recycling organization

Stakeholders were asked two questions:

Question #1: Do you believe the Model Framework (i.e. 8 Elements) is a useful tool to evaluate End-of-Life product management systems or if you have suggested improvements?

Agree: NEMA Battery Group, RCRC, Clean Harbors

Disagree: NEMA Thermostat Recycling Group

No Response to the Question: National Paint and Coatings Association, California Retailers Association, Kinsbursky Brothers Inc., Association of Lighting and Mercury Recyclers, Waste Management Inc., NEMA Lamp Group.

Question #2: Are there improvements you would suggest to the Framework or do you have concerns?

The table below lists the Elements and comments by organizations which clearly stated a position in their responses.

<u>Element</u>	<u>Recommended Option</u>	<u>Stakeholder Comments*</u>	
		<i>Agree</i>	<i>Disagree</i>
Funding Mechanism:	<i>Invisible Fee</i>	<i>Except ALMR, agree with fee instead of tax, however, there are some who disagree with invisible fees.</i>	<i>Those who prefer visible fees include: KBI, NEMA, NPCA</i>
Funding Approach:	<i>Mandatory</i>	<i>KBI, NEMA Battery Group, Clean Harbors</i>	<i>NEMA Lamp Group, NPCA, NEMA - TRC</i>
Fee Collection Point:	<i>Point of Manufacture</i>	<i>Clean Harbors</i>	<i>KBI, NEMA Battery, NEMA Lamp, NPCA</i>
Fund Consolidation Point:	<i>Producer Responsibility Organization (PRO) or Producer</i>	<i>KBI, NEMA lamp group partially agrees, Clean Harbors partially agrees,</i>	<i>NEMA Battery</i>
Fund Oversight:	<i>Government</i>	<i>KBI, NEMA Battery Group, Clean Harbors</i>	<i>NEMA Lamp Group</i>

<u>Element</u>	<u>Recommended Option</u>	<u>Stakeholder Comments*</u>	
		<i>Agree</i>	<i>Disagree</i>
Fund Management:	<i>PRO or Producer</i>	<i>KBI, NEMA Lamp Group partially agree, Clean Harbors</i>	<i>NEMA Battery</i>
Program Oversight:	<i>Government</i>	<i>KBI, NEMA Battery Group, NEMA Lamp Group, Clean Harbors</i>	
Program Operations:	<i>Combination Unique for Each Product: PRO, Private Companies, Local Government or Other Publicly-Funded Entities, or Combination</i>	<i>All with RCRC and Clean Harbors suggesting the addition of sub elements.</i>	

* Without further definition of the questions, ALMR was not comfortable responding.

Summary of Stakeholder Comments: The comments are presented as they were submitted are attached in Appendix B. Table 1 below is a summary of the themes in the comments, or specific comments, made by the various stakeholders and the Contractor response.

Comment	Stakeholders	Contractor Response
<p>1. (Concurrent Paint Project) Development of the Report with regard to paint should have been shared with the PPSI group at a much earlier stage, given the groups collaborative work on a nationally coordinated paint management system and the CIWMBs participation in the initiative.</p>	NPCA	<p>Research for the Report was conducted at the same time as work was proceeding with the Paint Product Stewardship Initiative project as well as other initiatives and it was therefore difficult to accurately track on-going work. Therefore, stakeholder comments were solicited on the final draft in order to capture work that may have occurred during the course of researching and writing the Report. The final Report was updated to reflect more information on the PPSI project.</p>
<p>2. (Concurrent Paint Project) The Report should remain silent on the recommendations for paint.</p>	NPCA	<p>The Report offers a recommended framework, and suggests for any existing program that there be stakeholder discussion before any significant changes are made to a System. As that applies to paint, there is a unique situation of an existing PPSI group that is developing recommendations and the contractor recommends the CIWMB take that into consideration before applying the recommended framework.</p>
<p>3. (Concurrent Paint Project) Report should more accurately reflect the current work of the PPSI and the new MOU.</p>	NPCA	<p>The report was updated in the section on paint to reflect the outcomes provided by NPCA on the PPSI project.</p>
<p>4. (Concurrent with PPSI) The Report was written primarily to “justify” current and future CIWMB policies with respect to EOL management systems.</p>	NPCA	<p>The draft report was submitted to CIWMB February 1, 2007 before the CIWMB voted to adopt the strategic directives. The contractor recommendations have not changed since the first draft, however, the text was added under each element to show the board how the recommendation fit with the new directives.</p>

Comment	Stakeholders	Contractor Response
<p>5. (Measurable Goals) The Report should not recommend unachievable recycling goals such as 100% “or as close to it as possible” as it is unrealistic and sets the programs and participants up for failure</p>	<p>NPCA NEMA Battery Group</p>	<p>The 100% “goal” correlates to CIWMB adopted a zero-waste goal. The DTSC disposal ban is on 100% of the products, nothing less. Therefore, anything less than a goal of 100% capture is a disproportionate response to the ban. A goal may not be achieved, but it is the ultimate goal and there may be intermediate goals of lower amounts. Additionally, if toxic products banned from landfill cannot be properly managed at the end of life to protect public health and safety that raises other concerns and correlates to the state’s Green Chemistry Initiative which is outside the scope of this Report.</p>

Comment	Stakeholders	Contractor Response
6. (General) Shared responsibility is preferred over producer responsibility	NPCA NEMA	It is important to define terms of shared responsibility and producer responsibility. The Report concludes that partnerships are important and encourages stakeholders to work together to design Systems so it is unknown if the reference is focused on funding or to the collection system. This can be discussed in future stakeholder and Board meetings.
7. (General) One-size fits all approaches do not work.	NEMA ALMR Waste Management	We agree that one size does not fit all and the Report was changed to clarify that point. The framework was designed to allow flexibility (choice) in three of the elements. Additionally the Report language has been changed to clarify that the recommended framework is the beginning point to start System discussions. However, there could be instances unforeseen by the Contractor and not identified through the case studies that would result in the CIWMB choosing a different option for a specific Element or product. Additionally, Report recommendations that the CIWMB and stakeholders make case-by-case refinements for each product including how to establish a baseline, calculate collection rate, collect data to measure success, establish interim goals, and operate the program.
8. (Case Study) There are multiple errors and omissions in the Maine Mercury Thermostat Case Study	NEMA- Thermostat Group	The case study was again reviewed by staff at the Maine Department of Environmental Protection and outside of making two minor changes, including one to the graphic, the case-study is the same. The remaining comments about the case study indicate a disagreement between Maine officials and TRC. Maine staff also report that the TRC data base shows 4,895 pounds mercury captured, not 5,100 pounds as indicated in the TRC comments.

Comment	Stakeholders	Contractor Response
<p>10. (Case Study) The TRC program is successful and that is ignored in the Report. TRC suggests giving the program a chance to work to expand its reach and operation without adding costs to government.</p>	<p>NEMA – TRC</p>	<p>The Report addresses the issue of how to measure effectiveness on page 2 under Limitations and again in the Next Steps section, Phase 1, item 4. TRC, and other programs such as Agricultural Container Recycling and Rechargeable Battery Recycling Corporation, documents success by providing information on increases in pounds collected from one year to the next as a measure. For thermostats, the PSI Background Report on Thermostats from 2004 claims only a “small fraction” is collected nationally. This again raises the question as to how System effectiveness will be determined for each product and the Report recommends that the CIWMB and producers work with stakeholders to determine measures of effectiveness for each product.</p> <p>TRC was incorporated in 1998 and the program has been in-place for almost ten years. Additionally, although cost is a consideration in EOL Systems, the CIWMB is also responsible to protect public health and safety.</p>
<p>9. (Element 3) General misunderstanding about what collecting the fee at the “Point of Manufacture” means in the Report.</p>	<p>NEMA ALMR</p>	<p>We agree that “Point of Manufacture” needs to be clarified. Text was added to the “Point of Manufacture” discussion in the Methodology section of the Report to clarify that collecting the fee at POM, for the purposes of this Report, is similar to what is currently done with the California Used Oil recycling program. The POM is defined as the “first entity to take title to the product for use in California which may or may not be the manufacturer.”</p>
<p>10. (Element 3) Fees cannot always be incorporated into the price of a product</p>	<p>NPCA NEMA ALMR</p>	<p>Table 1 was changed to include this as a challenge to internalizing fees collected at POM.</p>

Comment	Stakeholders	Contractor Response
11. (Element 4) Concerns that there is no documentation to support the contractor's rationale that producer responsibility will provide an incentive for manufacturers to make more environmentally preferable products.	NEMA	We agree and clarified our position on page 77 with additional text referencing a report which did find a connection between EPR Systems and green design.
12. (Element 8) Program Operations, could more emphasize consumer participation, education, outreach, convenience, and fiscal impact to consumer	Clean Harbors	Consumers are listed as stakeholders in Element 8 but it was not a focus of the Report to get to the level of detail described. Those issues could be determined in the future with stakeholder meetings.
13. (Element 8) Program Operations, could emphasize receipt from customers, shipping methods for intact and broken items, consolidation and material recovery processes, marketing of recovered products, programmatic issues such as green design and green chemistry, outreach training, and minimum content requirements.	RCRC	The focus of this Report was not to detail "Program Operations" but generally discuss the stakeholders involved in collection, transport, reuse, recycling, and public outreach. Lessons learned during program operations could be discussed in future stakeholder meetings or become the topic for another Report.