



**TRANSMITTED VIA EMAIL to [75%recycling.comments@calrecycle.ca.gov](mailto:75%recycling.comments@calrecycle.ca.gov)**

July 2, 2012

Ms. Carroll Mortensen  
Director  
California Department of Resources Recycling and Recovery (CalRecycle)  
1001 I Street--P.O. Box 4025  
Sacramento, CA 95812-4025

RE: California's New Goal: 75 Percent Recycling

Dear Ms. Mortensen:

Thank you for the opportunity to provide the Consumer Electronic Association's comments on the document entitled, "California's New Goal: 75 Percent Recycling," that was issued on May 9, 2012. The Consumer Electronics Association® ("CEA") represents more than 2,000 companies involved in the design, development, manufacturing, distribution and integration of audio, video, in-vehicle electronics, wireless and landline communications, information technology, home networking, multimedia and accessory products, as well as related services that are sold through consumer channels.

CEA appreciates your willingness to allow stakeholders to provide their comments on "California's New Goal: 75 Percent Recycling." As producers, sellers, collectors, and recyclers of electronic products, CEA members strongly support CalRecycle's goal of promoting recycling. CEA members are concerned, however, with certain provisions contained in the document. CEA's specific comments are outlined below.

**I. THOUGHTS FROM THE DIRECTOR:**

This section discusses the "success" California now enjoys and cites diversion rate of 65%, yet the remainder of plan would dramatically change the baseline and methods that have achieved that 65% diversion rate, thereby undermining the very "success" that the State has achieved. In the short term, CEA recommends that CalRecycle maintain the methodologies used to achieve the historical 65% diversion rate. For the long term, the slow modification of methodologies and practices will serve to better attain CalRecycle's new definitions and metrics for achieving "recycling." CEA is concerned that a significant change to the methods that California uses to measure recycling and diversion may initially result in perceived lower recycling rates, thereby eliminating past successes and undermining support for the program.

**II. THE NUMBERS! WHAT DOES 75% RECYCLING MEAN:**

This section outlines the policy direction, metrics, and methodologies that were historically used to measure California's "diversion" rate, which is cited as the "world's leading" diversion rate. The section explains that the diversion rate has not resulted in a high rate of recycling because it has allowed activities that are not truly recycling to count toward diversion. The section proposes a new methodology with a new baseline metric, target metric, and activities to track. CEA is concerned that this methodology – if implemented immediately and all at once, will significantly undermine California's previous diversion activities. CEA recommends that the new methodology

## CEA Comments re: “California’s New Goal: 75 Percent Recycling”

be phased in so that the switch from the old system to the new system does not result in a radical transition that could undermine California’s past successes. In the alternative, perhaps both methodologies could be implemented simultaneously to continue “successes” of the past while building the new program, which is aimed at better tracking true recycling efforts.

### III. POLICY OPTION #1: INCREASE RECYCLING INFRASTRUCTURE

As CalRecycle is aware, a robust California-based electronics recycling infrastructure is currently in place for covered devices due to implementation of California’s Electronic Waste Recycling Law. That program is funded by an advanced recovery fee (“ARF”) imposed at retail sale. It is imperative that any funds generated through the ARF for covered electronic devices remain dedicated exclusively to the implementation of the California Electronic Waste Recycling Law. CalRecycle should ensure that Electronic Waste Recycling funds – paid for by California consumers - are not raided to help finance increased recycling infrastructure for other products and remain dedicated to the collection and recycling of covered electronic products.

### IV. POLICY OPTION #4: ESTABLISH EXTENDED PRODUCER RESPONSIBILITY

Policy Option #4 of the report proposes to establish a process for CalRecycle to select products requiring management under a state-mandated extended producer responsibility (“EPR”) program. The section recommends “requiring manufacturers of listed products that are not recovered at a rate of at least 75% compared to a baseline to fund and establish an EPR program within 1 year.” CEA opposes the introduction of an EPR program in California. First, it is important to note that if the baseline is based on a weight metric and the products are very light, this proposal would set producers of such products up for failure since it would be very difficult to meet a weight-based 75% recycling rate. Also, a 75% recycling rate for consumer products that are not regularly discarded and/or traded in for like products is an extremely high recycling rate. CEA consumer research shows that many consumers hold on to certain consumer products, such as electronics, or pass them to friends and family<sup>1</sup>, resulting in a situation where new products and old products are not purchased and discarded on a 1:1 basis. Should CalRecycle consider establishing EPR programs, it will be important for the agency to understand how certain consumer goods (e.g., electronics) may differ from household municipal solid waste and establish metrics and policies that reflect those differences.

Although unstated in the document, the basis often used to promote an EPR policy is that, by requiring manufacturers to take back their own products, they will have an incentive to make more environmentally responsible products. As numerous CEA documents point out, the electronics industry has instituted significant improvements in the environmental aspects of their products. This has occurred with virtually every product life cycle and often without the motivation of any policy incentive or mandate. Producers have achieved such environmentally sensitive designs simply because the market has demanded such changes. Moreover, EPR provides no incentive for any long-lived products, such as electronics, because often too much time elapses between the initial design decisions and the ultimate end-of-life disposal. This is acknowledged in a report prepared for the Oregon Extended Product Responsibility Task Force, entitled: ["Swimming Upstream and the Promise of Green Design,"](#) in which the authors make the following points:

“For some products, even [Individual Producer Responsibility]...won’t necessarily help establish an actionable feedback loop able to influence new product design. For example, manufacturers required to recover long-lived products, such as televisions, will likely have moved on to different designs and technologies for which the recycling and toxicity lessons from currently recovered products won’t be relevant. At best, such manufacturers can be required to safely recycle and manage such products, but expecting design

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<sup>1</sup> A CEA consumer survey in July 2010 found that 48% of all consumer electronics removed from households are given away or donated, and the majority of give-aways go to family and friends.

## CEA Comments re: “California’s New Goal: 75 Percent Recycling”

changes based on such recovery may not be appropriate. For products with quicker design cycles and shorter life-cycles, expectations of design relevance may be more appropriate, at least for end of life management efficiencies.”

EPR policies do not result in better product design for the longer-lived products and the electronics industry has demonstrated by its performance that it does not require any mandates or incentives to manufacture products with improved environmental design.

It is important to note that there are many ways to increase the recycling of used electronics and mandatory EPR policies are not necessarily the answer. For example, a voluntary industry-led program spearheaded by CEA - the eCycling Leadership Initiative - is a collaboration of consumer electronics manufacturers, retailers, collectors, recyclers, non-governmental organizations and governments at all levels. The Initiative, also known as the Billion Pound Challenge, has set the goals of increasing the amount of electronics recycled responsibly to a billion pounds annually by 2016, growing the number of collection opportunities available to consumers, improving consumer awareness of available electronics recycling collection sites and providing transparent metrics on electronics recycling efforts. For more details on the eCycling Leadership Initiative, including a full list of participating companies, please see the [First Annual Report of the eCycling Leadership Initiative](#).

As detailed in this Annual Report released in April 2012, CEA announced that the consumer electronics industry dramatically increased its voluntary recycling efforts in 2011, thereby advancing the goals set by the eCycling Leadership Initiative. Notable achievements include:

- Participants of the eCycling Leadership Initiative arranged for the responsible recycling of 460 million pounds of consumer electronics, a 53 percent increase over the 300 million pounds recycled in 2010.
- Electronics manufacturers and retailers increased the number of recycling drop-off locations for consumers nationwide to nearly 7,500 from just over 5,000 a year ago.
- By the end of 2011, 96 percent of the recycling done by eCycling Leadership Initiative participants was conducted in third-party certified recycling facilities.
- CEA launched [GreenerGadgets.org](#) to educate consumers about electronics recycling and energy consumption. By entering a ZIP code, anyone can locate the closest responsible recycling opportunity sponsored by the CE industry and/or a third-party certified recycler.

Therefore, CEA opposes the establishment of state-mandated EPR programs, especially for consumer electronics, where existing programs, voluntary partnerships and initiatives already provide consumers with recycling options for their used electronics.

### V. POLICY OPTION #6: INCREASE PROCUREMENT AND DEMAND

Policy Option #6 outlines a number of policy recommendations that could be used to increase the procurement of or demand for products that use diverted materials. CEA agrees with CalRecycle that certain environmental policies can be a driver to better product design and the increased use of recycled materials. Specifically, the report mentions government procurement programs, such as environmentally-preferable purchasing and sales tax breaks on environmentally preferable products. CEA supports such programs that use the market and financial incentives to reward companies that are able to use recycled materials in their products.

## CEA Comments re: “California’s New Goal: 75 Percent Recycling”

However, CEA urges CalRecycle to use caution when considering minimum content requirements. It is the experience of CEA member companies that mandatory minimum content requirements often distort the availability and supplies of recycled material, thereby resulting in material shortages and increased prices. Also, any minimum content requirements must be set at a level that is reasonable and can be increased over time. For example, the current minimum content requirements in California’s Rigid Plastic Packaging Container Law are too high, resulting in few producers being able to meet those unreasonable requirements.

### VI. POLICY OPTION #7: OTHER MATERIALS: E-WASTE

Policy Option # 7c suggests that changes could be made to California’s Electronic Waste Recycling Law to promote increased recycling of electronic waste. The proposed options include: 1) shifting to an EPR model; 2) adding additional electronic devices to the current program; and, 3) using the value of the current e-waste collection program to offset the cost of comprehensive diversion. CEA opposes all of these options.

First, there is already a successful electronic waste recycling program in effect in California that is supported through the imposition of an advanced recovery fee during retail sale. These funds have been sufficient to support the development of a robust California recycling infrastructure for covered electronic waste.

Second, before proposing the addition of other products to the e-waste program, at a minimum, an evaluation should be conducted of the characteristics of electronic products to determine if a recycling program is needed. There is a thriving private sector market and voluntary recycling infrastructure for many types of non-covered electronic products. As stated above, these collection and recycling opportunities include those offered by consumer electronics retailers, manufacturer programs, and charitable and other programs. CEA is committed to working with CalRecycle to continue to expand and promote these voluntary electronics recycling efforts in the state. CEA opposes any changes to the California Electronic Waste Recycling Law. Before considering any options to change California’s law, CalRecycle should work with CEA to determine how increased waste diversion and recycling could occur through voluntary partnerships and coordinated public-private efforts.

### VII. POLICY OPTION #9 SOURCE REDUCTION: PRODUCT CERTIFICATIONS AND ECO-LABELS

Policy Option #9b calls for California to consider the use of product-related environmental certifications, standards, and eco labels in order to motivate manufacturers to design and sell products that meet environmental criteria, close the loop for recycled materials, and make environmentally preferable products easier to find and purchase.

A recent report prepared for the Oregon Extended Product Responsibility Task Force, entitled: ["Swimming Upstream and the Promise of Green Design,"](#) stated the following:

“Purchasing guidelines and regulations can drive design changes. Both the EPEAT and Top Runner approaches...demonstrate that the market is the message. For example, with the advent of the US federal government turning toward a purchasing preference for upper tier EPEAT products, computer makers quickly responded by developing products that achieved notable environmental improvements in the production, use and disposal phases. Such drivers could also be achieved at the State level.”

CEA supports the use of existing standards and eco-labels to identify environmentally appropriate products but believes that a state-specific eco-label would be highly duplicative of existing programs (e.g., EPEAT, The Sustainability Consortium, ENERGY STAR, UL Environment, etc.). Further, a California program would be extremely burdensome for the State to administer, and for manufacturers and retailers to meet, since products are not typically manufactured for a specific

## CEA Comments re: “California’s New Goal: 75 Percent Recycling”

state. In addition, a state-specific label would be difficult to implement due to the limited space available on product packaging, particularly as manufacturers are making products and packages smaller in response to market demand. CEA, therefore, opposes any California-specific eco-label requirement.

### **Conclusion**

CEA and its members are supportive of California’s New Goal: 75 Percent Recycling; however, CEA and its members are concerned with some of the proposed policy options outlined in the report. First, CEA is concerned that an abrupt change in the methodology that CalRecycle uses to measure state-wide recycling could result in significant declines in the state-wide recycling rate, thereby, negating the state’s past diversion successes. CEA recommends a gradual transition to the new methodologies to both recognize past successes as well as build the future for more accurate recycling rates. Second, CEA and its member companies currently participate in both mandatory and voluntary electronics recycling programs in the state and consider these programs to be very successful. CEA urges CalRecycle to avoid establishing policies that would interfere with these programs or dilute their funding or effectiveness. CEA greatly appreciates this opportunity to provide comments on CalRecycle’s Plan and CEA look forward to working with the EPA to address the industry’s concerns.

**The Consumer Electronics Association** (CEA) is a U.S. based trade association that represents more than 2,000 companies involved in the design, development, manufacturing, distribution and integration of audio, video, in-vehicle electronics, wireless and landline communications, information technology, home networking, multimedia and accessory products, as well as related services that are sold through consumer channels. CEA also sponsors and manages the International CES – The Global Stage for Innovation – the largest annual trade event in the U.S. ([www.ce.org](http://www.ce.org))

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