

November 16, 2006

Mr. Jerry Hart
California Integrated Waste Management Board
1001 I Street
Sacramento, California

Re. Toner Cartridge EPP Standard

Dear Mr. Hart:

We have received your letter of October 18. Thank you for sharing your thinking on the present status and next steps for the EPP Standard development process. Your letter suggests a significant course change, which, together with the process thus far, has generated serious concerns among the group of original equipment manufacturers (OEMs) who are stakeholders in this process. We will address those concerns in this letter, and are prepared to discuss them at the workshop you have proposed.

To provide context for our concerns and recommendations, we feel it is appropriate to briefly take stock of progress to date.

According to the EPP website, the first task in the standard development process, "Established interested parties mailing list," took place in March 2005. Thus, the process is nearing the two year mark. The present working draft of the EPP Standard dates from November 2005, one year ago. In response to that draft and discussion at a December 2005 workshop, a number of OEMs agreed to work together to draft an alternative approach to a recycling benchmark. The "OEM group" submitted a proposal in February of this year. It is still unclear to us whether you have given full consideration to any aspects of our proposal.

Throughout the process OEMs have submitted suggestions independently and as a group. We have not seen this exchange of ideas progress, but rather, as Bill Orr pointed out at the recent workshop, the process has been moving in circles. As a group, we are concerned that CIWMB responses to date have rejected our proposals or asked for greater levels of performance, without providing either substantive guidance about what would be sufficient or supporting rationale for the heightened levels of performance the CIWMB apparently wants.

A dramatic example of this escalation occurred at the recent workshop, when Marc Aprea asked a hypothetical question: Assuming reliable data could be generated, would a 60%, 70% or even 80% rate of used cartridge collection be sufficient? CIWMB staff did not provide a definitive response and still haven't offered guidance on thresholds, either specific metrics or general instructions about how they will be determined.

Also at the recent workshop, the OEM group presented third party data that indicate cartridges are exemplary performers in the area of waste diversion. The data, recently published by Lyra Research and Recharger Magazine (December 2005), indicate that 60% - 70% of monochrome toner cartridges are diverted from landfill by OEM and remanufacturing industry collections. The statistics were based on a national survey of businesses, and we fully expect that California businesses, not to mention California State Agencies, perform better. The collection rate is on par with the redemption rate of Aluminum beverage containers in California, which, according to the latest Department of Conservation's biennial report on the subject, was 70% during the period July – December 2005.¹

We have been working for over 18 months, with significant investment of time and effort, without any agreement on the benchmark of greatest interest to OEMs, Benchmark 4. This suggests that in addition to the lack of agreement about specific criteria, we also lack a protocol for establishing the relative importance of various cartridge life cycle aspects and environmental impacts, along with the corresponding levels of performance acceptable to CIWMB.

CIWMB is now proposing an expansion of the Standard's scope, to include a broad range of additional environmental and performance aspects.

While in general we support a holistic approach to evaluating the environmental performance of our products, we are nevertheless concerned about the prospect of expanding the scope of the EPP Standard proposed by CIWMB. We suggest that at this juncture it is appropriate to assess the state of this effort. In particular, we feel it is important to address the following questions:

1. Are toner cartridges the appropriate products for this early-stage EPP effort?
2. If so, what are the aspects that result in the greatest amount of environmental impact of importance to California?
3. What is the appropriate structure for a more holistic EPP standard?

We offer relevant information and our viewpoints in the following paragraphs.

1. Are toner cartridges the appropriate products for an EPP Standard?

As we have noted above, toner cartridges are already exhibiting leadership performance on a country-wide basis, without any legislative or administrative encouragement in most jurisdictions. We suggest that this high level of performance may in fact be a source of difficulty for the present standard development process. For example, while it would be a significant differentiator in many product categories for subject manufacturers to simply offer a free collection program for used products, it is a common practice among cartridge manufacturers. We are concerned that putting in

¹ Directors Office, California Department of Conservation, "Biannual Report of Beverage Container Sales, Returns, Redemption, and Recycling Rates", Sacramento, CA, May 11, 2006. Note: The combined redemption rate for beverage containers of all material types was 58% for the same period.

place systems to measure high levels of performance, well beyond simply offering a program, would create a disproportionate burden. Also, threshold requirements could disrupt an effectively functioning and competitive marketplace for empty cartridges.

Given the strong performance of toner cartridges and the lack of an agreed structure or performance metrics at this stage in the process, we respectfully suggest that CIWMB reconsider its product selection. If the goal is to establish a workable standard that can serve as an example for other product categories, toner cartridges may be an appropriate choice. However, if the goal is to differentiate within a product category in order to improve overall performance, we suggest selecting a lower performing product category with greater improvement potential.

We suggest that CIWMB's decision to select a different product category for an EPP standard would not mean the present effort has been without benefit. Certainly, the need has been identified for a clearly understood set of objectives and criteria development process, a lesson that can instruct future EPP standard development efforts. Additionally, CIWMB and industry participants have learned about the environmental performance of the toner cartridge market, and reporting limitations in certain areas. Finally, the importance of user awareness and education to participation in cartridge collection programs has been highlighted and presents a significant opportunity for public-private collaboration in the future.

2. If toner cartridges are an appropriate product category, what are the aspects that result in the greatest amount of environmental impact of importance to California?

If we are to proceed down the path of developing a more holistic standard, we strongly suggest that CIWMB define the environmental impacts of most importance to California. Ideally this will include benchmarks or improvement goals. Doing so would allow manufacturers to propose evaluation criteria and performance levels that are likely to meet CIWMB's objectives. Proceeding without this sort of guidance is likely to lead to effort being misplaced on criteria not particularly relevant to the product category, or prioritizing criteria related to environmental impacts of lesser importance to California or where cartridges are not a significant contributor.

Equally if not more important, manufacturers are in the difficult position of being asked to propose performance criteria with no reference point for understanding how the criteria will be judged. Put simply, if we have a clear picture of the desired outcome, we can work collectively and creatively to achieve it. On the other hand, when working with no real targets our ability to propose creative ways to meet CIWMB's objectives is severely limited.

3. What is the appropriate structure for a more holistic EPP standard?

We do not believe the current benchmark structure is appropriate for a full life cycle standard. Under the present structure, products must demonstrate that they conform to Benchmark 1 and one of the three additional benchmarks. The additional benchmarks (2, 3 and 4) become as you have described them, independent routes to EPP attainment. Such a structure, while it may be viable for a narrowly focused standard, could lead to significant inequities for a complete life cycle standard. For example, if additional life cycle aspects, such as material restrictions, are incorporated into a Benchmark 6 as has been suggested, a product meeting the narrowly defined criteria of Benchmark 2—recycled content—would not have to meet any material restrictions in order to be designated EPP.

If we are to continue this process and pursue an expanded set of criteria, we recommend a structure that outlines a variety of required and optional criteria equally applicable to all products. Once meeting threshold requirements, manufacturers have the flexibility to declare additional environmental performance and receive credit. The California Gold Sustainable Carpet Standard is an example that follows such a structure. We caution, though, that development of such a standard requires a significant time investment over a period likely to be years long.

In closing, we have significant concerns about CIWMB's suggested scope change, nearly two years into the process, for the proposed EPP Standard for Printer and Duplication Cartridges. We recommend that CIWMB reconsider its product selection, with a view to the magnitude of environmental impacts and improvement potential of the subject product. If we are to continue pursuing a toner cartridge standard, it is imperative that CIWMB immediately disclose its environmental objectives, outline a process for developing and prioritizing criteria and performance thresholds, and revise the structure of the standard to apply equally across all products.

We would appreciate your response in advance of the proposed workshop.

Sincerely,
EPP Industry Workgroup

M. Rufino for Canon U.S.A., Inc
S. Canonico for Hewlett-Packard
I. Sato for Sharp Electronics Corp.

S. Houston for Epson America, Inc.
A. Logan for Lexmark International, Inc.
A. Stocum for Xerox Corp.