Setting Standards for Excellence

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The Honorable Byron Sher, Chairman
Senate Environmental Quality Committee
California State Senate
P.O. Box 942848
Sacramento, CA 94248-0001

Re: Opposition to SB 20

Dear Senator Sher:

I am writing on behalf of the National Electrical Manufacturers Association (NEMA) to express our opposition to Senate Bill 20. NEMA is opposed to SB 511 because it is overbroad in product scope, will result in banning products that are essential to the public health, safety, environment and economy of California and imposes an unworkable and inefficient recycling program NEMA recommends that if the Committee believes there is a problem it should identify the scope of the problem and work with industry and others in the distribution chain to develop cost-effective solutions.

THE SCOPE OF THE PROPOSAL NEEDS TO ADDRESS SIGNIFICANT PROBLEMS AND NOT BE OVERLY BROAD.

Governments need to take into consideration scientific, environmental, product safety and economic factors affecting individual categories of products rather than the broad scope of electrical and electronic products. These factors differ from product category to product category and will affect the possible justification for regulatory requirements. NEMA does not support a one-size-fits all approach because it may lead to programs that do not support cost-effective, environmentally sound results. Product categories reviewed should be prioritized based on the volumes and toxicity of waste rather than the broad category of electrical and electronic products.

S. 20 violates this principle by addressing any product that could be purchased by a consumer that has electricity running through it that the department determines is a hazardous material or hazardous waste. It does this in the absence of any analysis showing that each of these products creates some environmental problem. The scope of S. 20 covers virtually every piece of equipment in existence that could be purchased by a consumer including medical, safety, home appliance and consumer entertainment equipment. This is because the Department defines the term "hazardous waste" to encompass very small amounts of commonly used metals including zinc, nickel and copper.

Individual types of electrical and electronic products, however, are vastly different in terms of: the number of units sold, the size and fragility of the products, their constituents, their distribution channels and users and the availability and attributes of alternatives.

We are aware of no data showing that each of these types of equipment presents a disposal problem either is terms of toxicity or volume. The equipment potentially ranges in costs from an alkaline battery costing less than a dollar to $7.00 home smoke detectors to electrical safety devices such as ground fault circuit interrupters to home appliances to automobiles. The numbers of each type of equipment vary greatly as do the constituents of such equipment. And the attributes of the equipment vary from entertainment to safety, environmental protection, public health and commerce. The scope of S. 20 potentially includes energy efficient equipment that the state promotes including screw in compact fluorescent lamps, linear fluorescent lamps, electromagnetic ballasts and programmable thermostats and products used for public safety including ground fault circuit interrupters, smoke detectors and sprinklers.

SUBSTANCE BANS NEED TO BE BASED ON RISK ASSESSMENTS SHOWING HARM FROM DISPOSAL OF A PRODUCT.

Substances should not be banned or restricted until an appropriate environmental risk assessment and an economic assessment for the substance has been conducted to avoid unintended adverse consequences. These assessments must consider the ready availability, and environmental impact and cost of substitutes, and any loss of functionality (reliability or performance) or product safety from use of such substitute. A determination to ban or restrict a substance being used in products and the time frame for such a restriction or ban must be risk based that considers the hazard of a substance and exposure to that substance. The restriction also must be based on an economic assessment and an understanding of the effect of its use in products including its performance and consumer needs.

S. 20 would authorize the Department to prohibit the use of a "hazardous material" in the manufacture of a "hazardous electronic device." This gives the Department very large discretion to ban materials used in products and in turn many products without having to conduct the appropriate assessments to focus on significant risks to humans, wildlife or the environment. The risks posed by the vast majority of, if not all, "hazardous electronic devices" are minimal because there is little exposure to the products' constituents.

COLLECTION REQUIREMENTS MUST BE BASED ON AN EVALUATION OF THE BENEFITS AND COSTS OF RECOVERY AND MUST INVOLVE EVERYONE IN THE CHAIN OF DISTRIBUTION, USE AND DISPOSAL.

Any recovery requirements should be based on an assessment of benefits and costs of recovery for individual categories of products. Where such an assessment shows recovery is necessary, government and industry should work together to identify a cost-effective solution that includes appropriate roles for all interested parties including manufacturers, distributors, retailers, users, recyclers and governments. Such solutions must be harmonized throughout the political unit. To the maximum extent possible recovery efforts should rely on existing infrastructures. Manufacturers should not be solely liable for the costs of recovery of new products. Manufacturers should not be liable for the recovery of historical wastes. Recovery targets should be established only after sufficient experience has been gained. Recovery targets should not be constructed to allow for the establishment of product design standards.

The USEPA's product stewardship program calls on those in the product life cycle--manufacturers, retailers, users, and disposers--to share responsibility for reducing the environmental impacts of products.

"Product stewardship recognizes that product manufacturers can and must take on new responsibilities to reduce the environmental footprint of their products. Without serious producer commitment, we as a country cannot make significant progress toward improved resource conservation and a sustainable economy. However, real change cannot always be achieved by producers acting alone: retailers, consumers, and the existing waste management infrastructure may have to pitch in for the most workable and cost-effective solution. The solutions and the actors will vary from one product system to another."

NEMA opposes the manufacturer take back provisions in S. 20 because they would impose a costly and inefficient system to recover "electronic equipment" and exclude those other than manufacturers for any responsibility.

In conclusion, NEMA believes that working together constructively, government and industry can efficiently and cost-effectively reduce risks caused by disposal of products. S. 20, however, imposes unnecessary burdens and costs while achieving little if any environmental benefit. We are willing to work with the Legislature and the Department of Toxics Substances Control to develop effective solutions to reducing these risks. We respectfully ask for your opposition to SB 20.

Sincerely,

Ric Erdheim

Ric Erdheim
Senior Manager for Government Affairs
National Electrical Manufacturers Association

cc:
Members of the Senate Environmental Quality Committee
Kip Lipper, Chief Consultant, Senate Environmental Quality Committee