



**Comments to CalRecycle on Background Document and Workshop Materials
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Thank you for the opportunity to provide comments on CalRecycle's background document and workshop materials.

Problem

California seeks to reduce 24 million tons of waste per year by 2020, about one quarter of which is packaging. Unfortunately, its existing waste management system has not kept pace with the need for improvement. Municipalities throughout the state collect different sets of materials for recycling. They run dissimilar recycling education programs for residents. There is inadequate investment in new technologies by the waste industry because there is no guarantee they will be able to recover their costs. Meanwhile, the external costs of pollution keep mounting, unaccounted, while in-state recycling jobs that could be created by recovering more material are lost. Municipalities and taxpayers continue to bear the burden of paying for garbage created by others, a grossly unfair system. The lack of a cohesive solid waste management program in California has led to inefficiencies and greater costs for all stakeholders. Brand owners that pledge to meet sustainability goals cannot find enough recycled material to create new products to help reach their corporate goals.

Opportunity

California has an opportunity to significantly change the way it manages packaging waste. It has been a national leader in exploring changes needed to its current waste management system, as well as looking to create a greatly enhanced system that will conserve resources, create recycling jobs, save municipalities money, and allow private sector competition and control within a lightly regulated system that emphasizes program performance. The CalRecycle Packaging Reform Workshop Background Document lays out a range of policy options for achieving the state's goal of 75 percent recycling, composting, and source reduction goal by 2020. CalRecycle has the opportunity to make changes to a significant percent of the waste stream comprised of packaging and printed paper (PPP). Without significant changes to the PPP sector, the state cannot achieve its diversion goal.

Overarching Goals

In addition to CalRecycle's Packaging Reform Goals (presentation slide 10), PSI believes that any system developed by California to enhance its waste management system should also seek to achieve the following overarching goals, which appear to be in line with the Background Document:

- Reduce municipal waste management costs by shifting costs from taxpayer-funded government programs to the producers and consumers who benefit from the products.

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- Maximize material value, including reducing contamination.
- Create recycling jobs.
- Create incentives for manufacturers to make more sustainable products.

System Framework

PSI believes that CalRecycle should seek to put in place a solid waste management system that achieves the following outcomes:

- Cohesive system that integrates existing related laws, regulations, and programs.
 - An integrated approach, as envisioned by the Background Document, will knit together the current fragmented system and create efficiencies through coordinated approaches that will better focus all system components on achieving common overarching goals.
- Use of existing recycling and solid waste collection and processing infrastructure.
 - California has a robust, albeit inadequate, existing infrastructure that can handle more recyclable material. Using this infrastructure will be least costly and least disruptive, creating greater efficiency and system harmonization.
- All municipalities collect the same materials for recycling.
 - Collecting the same set of recyclables throughout the state will reduce consumer confusion, contributing to higher participation, less contamination, and increased program efficiency.
- Statewide education that provides consistent messaging to residents and businesses.
 - Consistent statewide messaging will be less expensive and far less confusing than the existing diverse messages delivered to residents solely based on where they live in the state.
- Full producer payment into the system.
 - Producers are the only entity that can provide a consistent supply of funding needed to reach the overarching goals. This critical role is one of the key pillars to realizing benefits not only to producers themselves (increase in available high-quality recycled feedstock, meeting sustainability goals, etc.), but also to the waste management sector (in the form of recycling jobs) and to municipalities (through reduced costs). Each product sold into the market creates a cost currently borne by municipalities and taxpayers, and not by the companies or consumers, which represents a fairer system. Requiring producers to pay their share of the material they put into the market creates a financial incentive for them to reconsider the materials used in their packaging. Payment should include the cost of collection, processing, education, outreach, and state government oversight and enforcement.
- Full producer involvement in the collection and processing system, with state government oversight and a multi-stakeholder advisory committee.
 - If producers pay, they need close involvement in the system to maximize efficiency. Such a system can be set up in a way that preserves current norms in California regarding municipal involvement and hauler operations. A new system of contracting should be set up to account for changes so that brand owners develop contracts for collection and processing, but offer opportunities to maintain existing hauler relationships, and use existing infrastructure.

- CalRecycle must commit to enforcement against non-compliant companies to ensure a level playing field.
- Other stakeholders (e.g., municipalities, waste management industry, and consumer/environmental groups) have a significant advisory role to play. These perspectives should be formally incorporated into a multi-stakeholder advisory committee that has a significant voice in brand owner decisions. Continual communication is essential for successful program implementation.
- Use of systems with a proven track record to achieve California’s overall goals.
 - Many ideas have been proposed in CalRecycle’s stakeholder meetings, most of which have been tried over the past 30 years by waste management professionals, including myself. The Task Force should seek new and existing systems that have the ability to take California beyond where it is now. CalRecycle should choose systems that have been *proven* to achieve the overarching goals sought, even if in other places in the world. CalRecycle should not be satisfied with recommendations that propose the same strategies tried over the past 30 years. The stakes are too high to leave it to chance or to prolong the process unnecessarily.
- Covers all packaging materials.
 - Although there is logic to focusing on the biggest problems in the packaging waste stream, an incremental approach will be more difficult to implement in the long-term and will only delay the development of a comprehensive system. It also could create free riders into the system if consumers have a hard time distinguishing between similar looking, but different, products. I would encourage CalRecycle to research whether this type of priority focus has been tried before in any country with a comprehensive packaging Extended Producer Responsibility (EPR) system, which we believe is critical to meeting the state’s diversion goals. Focusing on the problem materials only would be akin to collecting only cathode ray tubes in California’s electronics program. Processors rarely want to take only low value materials, but want a mix of materials with a range of value. All packaging materials create impacts, and all need to be included in an EPR system, even though different collection and processing strategies may be needed for some problem materials within the context of the comprehensive policy solution. Some products have greater environmental and economic impacts than others (e.g., wax cardboard vs. non-waxed cardboard). The range of packaging material value can be addressed through the implementation of variable fees within an EPR system that charges more for materials that cost more to manage.

System Recommendations

I agree that no one policy will meet California’s waste diversion goals. Based on my solid waste experience working in the public, for-profit, and non-profit sectors, I recommend the following complementary system components that best fit the system framework described above, and which have the best chance of meeting the overarching goals:

- **Extended Producer Responsibility (EPR):** California should adopt an EPR system as the central component of its new materials management program. These are the only systems proven globally to achieve the goals California strives to meet. For example, British Columbia’s EPR program achieved a 72 percent recycling rate in 2016. Belgium’s recycling rate was 81 percent in 2014 and their program overall creates 2,500 jobs; last year, their packaging recycling system avoided more than 670,000 tons of carbon

dioxide emissions. The U.S. is only one of a few countries in the Organization for Economic Cooperation and Development that does not have an EPR for packaging system. Those with EPR systems (some for up to 30 years) include all 28 countries in the European Union, the four largest provinces in Canada, Israel, Brazil, Chile, India, Russia, and numerous other countries. EPR systems are growing worldwide, and are the only systems seriously under consideration by countries seeking to meet overarching goals similar to those set out by California.

Of the 13 policy tools identified in the Background Document, many could be incorporated as elements of an EPR system, developing a cohesive and comprehensive policy for the state, and avoiding a patchwork of policies. For example, EPR systems create a “standard statewide standard list of recyclable and compostable packaging,” and many EPR systems include a “landfill ban” after several years of recycling system maturity. EPR systems also could easily incorporate a “minimum post-consumer content requirement” by lower fees being charged on products with a higher percentage of post-consumer content. Regarding “labeling requirements,” I encourage CalRecycle to explore use of the existing How2Recycle labeling system rather than creating a new state-specific label. Again, labeling can easily be incorporated into an EPR law.

- **Continue promotion of Pay-as-You-Throw:** PAYT programs promote *consumer* responsibility through financial incentives. They also rely solely on municipal resources and political will for promotion, acceptance, and passage. These systems exclude producer responsibility and are difficult to pass politically. While they work well to reduce waste and increase recycling, and should be part of any comprehensive waste reduction program, they cannot be relied on independently, or in combination with enhanced existing systems, to reach the state’s overarching goals. There are many global examples of PAYT programs playing a complementary role to an EPR system, including Quebec, Ontario, Belgium, and Germany. In 1992, I was part of a team that introduced a PAYT system proposal in the town where I still reside – Brookline, Massachusetts. It finally passed in 2016. California should not have to wait this long for program relief.
- **Bottle Bill:** I managed Massachusetts’s beverage container redemption system for seven years (1993-2000). It was time-consuming to manage but produced a high quality consistent supply of glass, plastic, metal, and aluminum. In addition, the rate of return for beverage containers under a redemption law is three times the rate of non-redemption containers. These systems nationally produce similar results. They provide a strong consumer financial incentive and require partial producer responsibility on one segment of the packaging industry. There are numerous examples globally of the ways in which beverage deposit systems can complement a new EPR packaging system. There are also opportunities to explore ways to reduce duplicative system costs, which have been contentious in discussions of redemption programs. California’s beverage deposit system needs reform, not replacement, and should be part of California’s comprehensive packaging reduction effort. Attention to new handling methods that reduce glass breakage and contamination will maximize system performance.
- **Require EPR Programs to Recycle to the Greatest Extent Possible:** To achieve California’s 75 percent statewide recycling goal could require municipalities to spend significant funds. Although the goal is well intentioned, it could lead to an unfunded mandate for many municipalities whose costs to enhance their recycling system often exceed the financial value to the town. This burden gets to the heart of the concept of producer responsibility. Taxpayers should not have to pay to manage products put on the market by companies. It makes no sense for taxpayers to continue paying this bill, since under this system there is no incentive for manufacturers to consider the impact of the types of materials they

place on the market. Managing those products after consumer use should be the responsibility of the companies because they alone have the ability to alter the materials used in those products, and the materials they use dictate the cost of managing those products—a cost that municipalities currently bear. This is the perspective that California legislators must come to understand. This is the perspective that other countries around the globe have already realized. Once a new EPR program is put in place, in which producers provide funding into a system *they* manage to most efficiently collect and process materials *they* put on the market, it will be reasonable to enforce against municipalities that do not use a new comprehensive recycling system in the manner intended.

- **Voluntary Industry Programs:** The Recycling Partnership has made significant strides to provide collection carts and technical assistance to municipalities in need. I applaud this effort. However, it is incremental and focused on a limited slice of what is needed to meet the overarching goals set out by California. Like other programs above, the Recycling Partnership and other voluntary industry initiatives (WRAP plastic film recycling, Closed Loop Fund providing loans to governments, etc.) should be incorporated into a new EPR system. Voluntary programs in the U.S. currently provide a path forward for plastic film (e.g., bags) and other niche products to be melded into a more comprehensive program. They also lay out the foundation for corporate relationships needed to roll out an EPR program. By implementing voluntary programs alone, however, California has no chance of meeting its overarching goals. This sentiment is echoed by waste management professionals globally. There are numerous accounts of how other countries developed voluntary programs before accepting that the only way to achieve waste management goals is through an EPR system. This is the reason why EPR programs for packaging continue to flourish globally, including recent laws enacted in Brazil and Chile. California should learn from these countries. The situation in the U.S. is no different than in other countries. Opposition is always expressed by those clinging to the status quo. Once a signal is sent by legislators that change is coming, these companies seek to be part of a new system that reduces the risks of the government passing a law that does not coincide with their interests.

Recommended Approach

I support CalRecycle's interest in seeking legislative approval to develop regulations that will implement a range of strategies to reduce packaging waste, including regulatory options such as EPR. This two-phase process is similar to the process used in Canadian provinces to introduce their EPR systems, as well as many other countries around the world. Phase One involves the passage of legislation that sets out parameters for a new EPR system. Phase Two provides the opportunity for stakeholders to collaborate to develop a comprehensive system, including EPR, that will best adhere to the framework outlined above. While Phase One provides a strong, clear message to stakeholders that a new system will be implemented, Phase Two allows these stakeholders the opportunity to shape that system to represent their own unique interests. The legislature should set a clear timeframe for the establishment of regulations, and make it apparent that regulation will still be pursued independently if stakeholders refuse to collaborate, or if negotiations fail to achieve consensus.

Personal Experience

I have spent over 30 years working on solid waste issues in the U.S., including seven years as Director of Waste Policy and Planning for the Massachusetts Executive Office of Energy and Environmental Affairs. In that capacity, I attempted to balance the interests of multiple stakeholders, including the state administration, local government, recyclers and haulers, retailers, environmental groups, and others. In that capacity, I worked closely with staff at the Massachusetts Department of Environmental Protection (Mass DEP). I was responsible for solid and hazardous waste management in the Commonwealth, reporting to the Governor's Office through three administrations, and managing waste policy in our five departments (including Mass DEP). I led the

development of four solid waste master plans, developed the state's first program and manual for developing PAYT programs, developed the state's first master plan for managing household hazardous waste, and managed the disbursement of over \$15 million yearly to public and private entities to encourage innovative programs that reduce waste, increase recycling, create recycling jobs, and reduce municipal costs.

I spent those years developing and implementing voluntary programs, including education, outreach, and financial incentives to encourage municipal and consumer behavior that reduced waste. I also developed and implemented regulatory programs, such as waste bans, PAYT, municipal waste combustor requirements, and others. With Mass DEP, I also contributed to closing more than 100 unlined landfills and shutting down several polluting waste incinerators. I developed many collaborative programs with industry, including a first-in-the-nation paint stewardship law and first-in-the-nation mattress stewardship law, both now in place in California.

With the Product Stewardship Institute, I have spent 12 years conducting research into new systems, including EPR for packaging around the world and how it can be applied to jurisdictions in the U.S. I understand the difficulties in returning waste materials back into the circular economy, including the fears, challenges, and opportunities that face California, legislators, the administration, brand owners, waste haulers, municipal officials, and other stakeholders. I also know when the time is ripe for a state to act, and that time for California is now.