

April 18, 2017

Cynthia Dunn
Supervisor, Extended Producer Responsibility (EPR) Unit
CA Department of Resources Recycling and Recovery (CalRecycle)
P.O. Box 4025
Sacramento, CA 95812

Re: Comments in Response to the March 22, 2017 Packaging Workshop- Source Reduction Policies Needed

Dear Ms. Dunn:

The undersigned organizations would like to thank you and your team for holding an informative and interesting dialogue about packaging policy on March 22nd. The panelists represented a broad array of experts on waste and packaging who provided some useful insight into packaging Extended Producer Responsibility (EPR) programs in Europe and Canada as well as other policies in play in the U.S. We appreciate the opportunity to weigh in on the question of what packaging policies are needed in California. Here, we describe why a “prevention first” approach should be employed and explain our vision for a framework of EPR focused on prevention and sustainable financing for recycling and other policies that we believe will achieve packaging source reduction.

I. Goals of the Packaging Policy

A key question in designing a new set of packaging policies is “what are the goals?” If it’s to achieve diversion from landfill, boost recycling, finance recycling, or prevent waste, the types of policies necessary to achieve these goals will vary. In California, there are some specific statutes that guide the state regarding the goals for packaging policy.

- " **The Integrated Waste Management Act (IWMA)**, set forth in the Public Resources Code, requires that the state must manage solid waste by maximizing all feasible source reduction, recycling and composting options before allowing landfill and transformation/incineration, and *source reduction is given the highest priority*.
- " **AB 341** sets a goal that not less than 75 percent of the solid waste generated be source-reduced, recycled, or composted by 2020.
- " **Under the Global Warming Solutions Act (AB 32)**, the state has proposed Waste Management Sector Greenhouse Gas (GHG) emission goals that achieve Net-Zero GHG emissions from the entire Waste Sector by 2020 and a 25% reduction in GHG emissions from 2020 levels by 2050.

Since local governments are struggling to meet their current waste management obligations and fully fund programs that help them achieve the AB 341 goals, it is reasonable to add to the packaging policy goals the need for financing mechanisms that achieve these statutory goals. Combining these goals and commitments, we conclude that packaging policies must meet the following objectives:

1. Maximize source reduction and recycling, giving highest priority to source reduction;
2. Achieve greenhouse gas emissions reductions goals; and
3. Provide consistent financing.

II. Prioritize a Prevention-First Approach as part of an EPR Framework for Packaging

The IWMA hierarchy places source reduction (i.e. prevention of waste) as the highest waste management priority. This makes sense as there are greater environmental benefits to generating less waste at the front end (i.e. preventing product usage), such as, less energy, water, and resource consumption along with less pollution. But also, reducing the quantity of packaging used in the first place provides the greatest reduction of greenhouse gas emissions.

Despite the prioritization of prevention in the hierarchy of virtually every national EPR packaging policy in place today (and there are many), the results to date demonstrate that packaging waste generation is continuing to increase. To prioritize prevention and succeed, California will need to do things differently. If prevention is prioritized, then the goal will be to reduce disposable packaging itself (i.e. prevent packaging) as much as possible and then recycle (and possibly compost) the rest. Here we make recommendations as to how an EPR packaging policy should be designed in order to prioritize packaging waste prevention.

In addition, EPR provides a consistent source of funding for packaging waste management. By forcing producers to pay for the end of life management of the products they put into the marketplace, EPR internalizes the costs of waste in the production of the product, rather than leaving the cost as an external one funded by taxpayers. By forcing producers to meet targets for source reduction and recycling, EPR can incentivize producers to design products to be source reduced and recycled.

III. Overall Framework for EPR Packaging Policy that Prioritizes Prevention

Some of the most important elements of a general EPR framework/ concept that prioritizes prevention, boosts recycling, and adds reuse to the mix are listed below.

1. Performance Targets

In order to achieve source reduction and recycling, the EPR program must include performance targets both for prevention and recycling. Greater reduction targets need to be set for materials that pose management problems or have excessive negative environmental impacts. In addition, there needs to be targets for recycling the portion of the waste stream that can't be source reduced or reused.

2. Measuring Packaging Prevention- How to Measure and What to Measure

Assessing prevention based on weight of packaging alone creates an incentive simply to light-weight packaging which drives an increase in the use of plastic. To avoid this, three potential alternative systems of measurement should be considered for each packaging type: **weight, number of units sold, and volume.**

3. Covered Products

We recommend a comprehensive approach to maximize the greenhouse gas reductions and other

benefits of a prevention-first approach. A comprehensive policy needs to address primary packaging, secondary packaging, transportation packaging, packaging components, and printed paper.

4. Program Financing

Costs must be fully internalized to create market drivers for producers. Packaging producers, not consumers, need to be financially responsible for the full scope of program implementation including material collection, treatment, and management; program administration and oversight; litter cleanup; research and development; and public education and engagement to impact consumer behavior.

5. Producer Responsibility Organization (PRO) Governance

Under this system, a PRO will be responsible for achieving mandated targets. A PRO governance structure that relies solely on representatives of regulated industry is unlikely to prioritize and achieve metrics that are at odds with their financial interests. Representation should include other impacted interests such as, local governments, organized labor, environmental organizations, materials recovery facility operators, and waste/recycling haulers.

6. Local and State Government Role

- " CERTIFY the PRO and review submitted plans (State): PROs must submit plans detailing how they will meet both waste prevention and recycling targets. The plans would contain three components: waste prevention, recycling, and public education.
- " EDUCATE (Local): Local governments can provide on-going outreach to residents and local business on how to reduce the quantity of disposable packaging.
- " CONTRACT (State and Local): Local governments may negotiate agreements to continue to provide collection programs or agreements with haulers as a service provider to a PRO. In addition, jurisdictions may include conditions for public procurement contracts to promote the reduction of packaging consumption and the use of reusable or refillable packaging.
- " REGULATE: (Local and State): Government should enact laws that drive waste prevention.

IV. Other Policy Options

1. **CalRecycle's suggestions:** Some of the non-EPR packaging policy options presented by CalRecycle in 2014 can also be effective means to promote packaging reduction and recycling including:
 - **Product bans** (like the statewide plastic bag ban) should be considered for additional items, like untethered bottle caps, straws, and polystyrene foam products.
 - **Minimum recycled content requirements** like the Rigid Plastic Packaging Container law should be expanded to new product categories.
2. **Policies that Promote Redesign of Packaging for Source Reduction and Recycling**
 - **Bans on multi-material packaging-** plastic packaging, in particular, is hard to recycle when it contains a variety of materials inputs and chemical additives.

- **Separability requirements** - if multiple materials are necessary, they should be easily separable.
 - **"Disrupter Fees"** - applied to non-recyclable and packaging that is laden with toxic chemicals.
 - **Use of post-consumer recycled content** to boost markets for recycled materials.
 - **Product to package ratios**- to ensure that packaging is minimized to the greatest extent feasible.
 - **Durables only for on-site dining** to reduce the use of disposable foodware.
3. **Market Mechanism Policies that Discourage Disposables or Encourage Recycling**
- **Packaging Taxes**- For example, Denmark's packaging tax reflects differences in environmental impact of each material. Latvia has also introduced differentiation according to material.
 - **Deposit and Refund on Refillables**- Deposit and refund schemes have existed for many decades for refillable packaging in European countries. The first one to be implemented was in Sweden in 1984 for aluminum cans that are refilled. Since then, nine other European countries have implemented such systems that achieve higher than 85% collection rate.
 - **Government Procurement**- Criteria can be established for public sector purchasing that prioritizes the packaging reduction.
4. **Policies that Discourage the Use of Toxic Chemicals in Packaging**- We encourage CalRecycle to work with DTSC and DPH to address the gaps in environmental and public health protection resulting from weak federal and state policies regarding the use of "indirect food additives," such as fluorinated substances and antimicrobials, that migrate into food and beverages from packaging.¹ We respectfully request that this packaging policy process also address these concerns.

We appreciate the opportunity to provide feedback and hope that CalRecycle will soon outline its vision for a process for development of a packaging program. We urge the department to focus first on articulating goals for the program that are more meaningful than diverting waste from landfill and will achieve more significant environmental benefits.

Sincerely,

Doug Kobold
California Product Stewardship Council

Leslie Tamminen
Ocean Program Director

¹ For a review of regulatory failure, see Clean Water Action's 2016 report, "What's in the Package?" <http://www.cleanwateraction.org/features/whats-package>. To learn more about recent investigation into the presence of fluorinated substances in foodware, see Schadler, L. et al, "Fluorinated Compounds in U.S. Fast Food Packaging" Env. Sci. Technol. Lett., 2017, 4(3), pp. 105-111.

Seventh Generation Advisors

Angela Howe
Legal Director
Surfrider Foundation

Samantha Sommer
Waste Prevention Program Manager
Clean Water Action- California

Sarah Abramson Sikich
Vice President
Heal the Bay

Anna Cummins
Co-Founder and Global Strategy Director
5 Gyres

Dianna Cohen
Co-Founder and CEO
Plastic Pollution Coalition

Bill Allyaud
California Director of Government Affairs
Environmental Working Group

Paul Koretz
Los Angeles City Council Member, 5th District

Benjamin Kay
Science Instructor and Team Marine Coach
Santa Monica High School and Santa Monica College

Mati Waiya
Executive Director
Wishtoyo Chumash Foundation

Julie Bryant
City Government Zero Waste Senior Coordinator
San Francisco Department of the Environment