



September 28, 2009

TO: Administration & Organization Committee
FROM: Wendy Sommer, Senior Program Manager
SUBJECT: *Extended Producer Responsibility - Resolution*

BACKGROUND:

The United States Environmental Protection Agency (EPA) estimates that approximately 75 percent of today's waste stream comes from manufactured products – including household hazardous items such as televisions, cell phones, personal computers, fluorescent lights, batteries, paint and pesticides, as well as product packaging. Electronics contain lead, cadmium, and other toxic heavy metals that pose a threat to public health and the environment when improperly disposed. Other products also contain toxic constituents, such as the mercury contained in fluorescent lights, or are packaged with problematic materials and excessive packaging. Still other products, such as hypodermic needles and other medical “sharps” can injure the public and sanitation workers when improperly disposed.

In response to legitimate environmental concerns about the landfilling of such products, California has enacted landfill bans. In 2006, “Universal Waste” (fluorescent lights, household batteries, electronics, mercury switches, etc.) were banned from landfilling. In 2008, “sharps” were banned from landfilling. Because of growing concerns about the presence of prescription and non-prescription drug residues in our waterways, it is anticipated that pharmaceutical waste will likely be banned from landfill disposal in the near future. However well-intended the disposal bans are, the responsibility for enforcing these bans has been placed on local governments, which lack the funding, capacity or resources to properly manage the growing list of products banned from landfills.

Under today's waste management system, the responsibility for managing the end-of-life (EOL) of these product wastes falls on local governments. Ratepayers and taxpayers are financing costly collection infrastructure and programs which, in effect, amount to a subsidy for the product manufacturers, distributors, retailers and consumers.

DISCUSSION:

Currently, the cost for recycling Household Hazardous Waste materials through the “free” permanent HHW facilities in our county is roughly \$2,200 per ton. Statistics vary, but it is estimated that the statewide percentage of households using local government-sponsored

Household Hazardous waste programs is no more than 5 percent.¹ This means that *approximately 95% of the residentially-generated household hazardous waste in California is unaccounted for*. Clearly, the current system is not working and local governments cannot afford to offer expanded services.

Extended Producer Responsibility (EPR) offers a solution by engaging producers in the lifecycle management of their products. EPR recognizes that all stakeholders share some responsibility, but the producer has the greatest responsibility because only producers can change the design of products. EPR does not stipulate *how* producers must take responsibility, but rather that they *must*. This gives producers the flexibility to design programs that work for their product and business model. Producers may choose to utilize and fund existing recycling facilities and programs, or to capitalize on existing distribution networks to create take-back programs that work as “reverse retail” or mail-back systems, or to work with other producers to develop third-party ‘product stewardship’ organizations.

Many of the world’s largest and most successful businesses already operate in EPR systems, including Canada, Europe, Japan, and Korea. Under an EPR system, producers of selected products are required to be stewards of that product at the end of life, which levels the playing field as all producers will integrate the cost of product discard management into the purchase price of the product. Those that create the most cost-competitive recycling program will have the least expensive product. EPR allows the free-market system to work *for* recycling, not against it.

There is an upsurge of support and momentum for EPR throughout the State and the country to manage EOL product wastes in order to control pollution, minimize costs and reduce climate change impacts. Adoption of a resolution supporting EPR will help in creating a critical mass to further EPR goals.

Finally, EPR will drive better product design. When producers are responsible for the EOL management of the products they create, there is a financial incentive to design products that have fewer toxic constituents, that are longer lasting, and that encourage recycling and reuse, as opposed to disposal. Businesses do not want to pay for expensive collection programs for hazardous waste any more than local governments do, so if they have to take-it-back, there is an economic feedback system in place that makes them re-think the materials being used.

RECOMMENDATION:

Staff requests that the Administration & Organization Committee recommend to the full WMA Board to:

1. Adopt the attached Resolution supporting Extended Producer Responsibility.
2. Encourage all member agencies to adopt a local version of the attached Resolution.

Attachment:

Local Government Brochure: Why Local Governments Want Product Stewardship:

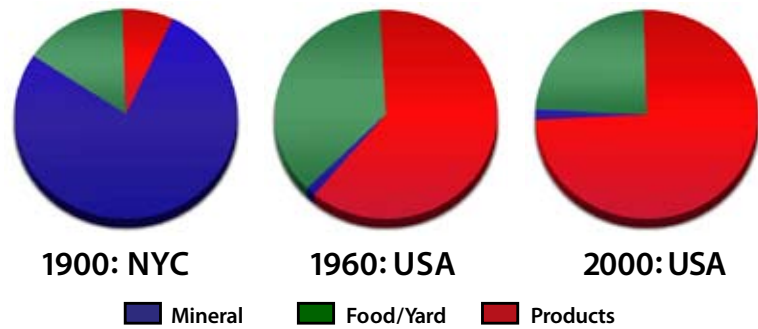
http://www.calpsc.org/outreach/docs/local-govt-brochure_11X17_7-15-09_final-web-quality.pdf

¹ Based on CPSC conversations with Dept. of Toxic Substance Control staff and Annual Form 303 Reports

Waste Generation & Recovery Are Changing

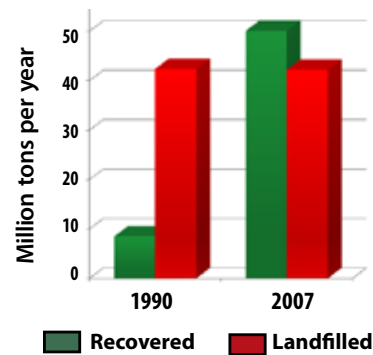
A century ago, when local governments assumed responsibility for solid waste, it consisted mostly of coal ash left over from heating and cooking. The rest was mainly food, with a small amount of simple manufactured products like paper and glass.

Today, manufactured products and associated packaging make up 75% of what we discard*.



Since the 1980s, California's reuse, recycling and composting industries have grown explosively. Thousands of California businesses are recycling valuable resources back into productive commerce, so that today, *about half of the materials discarded in California get recovered*. Though this is a huge achievement, due to population growth and the expanding quantity of packaging and product waste, the amount of waste going to landfills isn't reducing — in fact...

The volume of waste disposed in landfills is about the same as in 1990: approximately 40 million tons.**



To further reduce product and packaging waste and toxicity, *we must further motivate designers, manufacturers and brand owners to design for increasing recycling and recovery*. Product stewardship programs have already been implemented in Europe and Canada with many of the same companies now selling products in California, so we know it can be done here as well.

* Source: *Unintended Consequences*, Product Policy Institute, 2005. See Page 7, Figure 3. The data are published by USEPA as noted in this report.
 ** Source: CIWMB, <http://ciwmb.ca.gov/Profiles/>

Join Us! Help Make Producer Responsibility a Reality in California

- 1 Pass resolutions, ordinances, plans and policies**
Use model producer responsibility plans and policies from our website.
- 2 Advocate for statewide legislation**
Add producer responsibility to whatever advocacy efforts your jurisdiction is pursuing in Sacramento.
- 3 Join CPSC**
Participate in CPSC and help us speak with a unified voice in California. There IS power in numbers.



P.O. Box 216381
Sacramento, CA 95821
www.CalPSC.org

Heidi Sanborn, Executive Director
Phone: 916-480-9010
Email: info@CalPSC.org

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Why Local Governments Want Product Stewardship

A Better Way



Most of the companies that make this stuff aren't paying a nickel to recycle it. In fact, *they designed it for disposal*—and you're picking up the tab!

We think it's time to change that.



The Problem: \$500,000,000



The cost of collecting, recycling and disposing of hazardous products easily exceeds \$500 million* a year in California.

*source: CIWMB

The List of Products Banned from Landfilling is Long

Batteries, sharps, electric switches, cell phones, electronic equipment, computer monitors, aerosol cans, fluorescent light tubes, compact fluorescent lights, thermometers, treated lumber... and pharmaceuticals are expected to be banned soon.

Disposal bans without plans do not work:

- Bans DO NOT reduce volume, toxicity or illegal disposal of the wastes.
- Bans DO NOT create safe and convenient collection and recycling options.
- Bans DO put the burden of enforcement on local governments.
- Bans DO put the burden of cost on ratepayers and taxpayers.



Disposal Bans Are an Unfunded Mandate

Local governments try to enforce the state mandated bans, but they don't have the money to do it.

It's the classic unfunded mandate—a government directive without the resources to implement it. The intentions of the bans are good, but the responsibility is misplaced on local governments.

The Solution: Producer Responsibility

Two Systems. No Communication.

We currently operate under two separate systems. The front-end system designs, manufactures and sells products to us and then effectively rides off into the sunset. The back-end system is engaged once the consumer is done with those products.

Local governments become financially responsible for managing the disposal of these private goods, many of which are toxic and disposable *by design*.

These two systems don't communicate with each other. Manufacturers don't have to design products to be nontoxic or recyclable, or design systems to safely dispose of them at the end of their usefulness. And local governments don't have any input into how toxic or durable the products are; but they still get stuck with the disposal bill.

Today's Linear Product Flow — Production to Disposal



A Better Way: Producer Responsibility

Extended Producer Responsibility (EPR), or Product Stewardship, means whoever designs, produces, sells or uses a product takes responsibility for minimizing its environmental impact through all stages of the product's life cycle. *And the producer, having the greatest ability to minimize impacts, has the most responsibility.*

When government makes stewardship programs mandatory, it levels the playing field for businesses so they can compete in a fair marketplace.

Today, products are regulated one category at a time (e-waste, pesticides, etc.). A better approach, an "EPR framework," provides one law that adopts EPR principles for all products and gives regulators the authority to implement rules that make sense for each product.

Implement Producer Responsibility

Manufactured product discards should be managed by producers or their agents. Local governments and private recyclers could then focus more on fostering opportunities to expand reuse, composting and recovery of recyclable materials and other beneficial uses.

Tomorrow's "Cradle to Cradle" System



Tomorrow's system will engage producers to drive green design through every stage in a product's life cycle: from "cradle to cradle." Everyone will share in the responsibility for the products they create, sell, use and discard.

The Producer Responsibility movement is growing:

- Local governments throughout the U.S. are beginning to implement EPR programs and policies.
- Some manufacturers and retailers in the U.S. have started to implement EPR. In fact, many manufacturers are already practicing EPR in other countries... *the same manufacturers that aren't doing it here!*
- California Retailers Association, Clean Seas Coalition, California Stormwater Quality Association, California Council of Directors of Environmental Health, California Resource Recovery Association and many more support EPR.

EPR Addresses Multiple Issues

- | | | |
|----------------------|------------------|-----------------|
| • Solid waste | • Stormwater | • Wastewater |
| • Hazardous waste | • Ocean litter | • Public health |
| • Resource depletion | • Climate change | • Energy usage |

**ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY
RESOLUTION #WMA 2009-**

**MOVED:
SECONDED:**

AT THE MEETING HELD NOVEMBER 18, 2009

SUPPORTING EXTENDED PRODUCER RESPONSIBILITY

WHEREAS, approximately 1.3 million tons of discarded materials and products are currently sent to landfills from Alameda County on an annual basis at an average cost of \$150 per ton for collection and disposal; and,

WHEREAS, on February 8, 2006 California's Universal Waste Rule (CCR, Title 22, Division 4.5, Chapter 23) became effective; and,

WHEREAS, the Universal Waste Rule bans landfill disposal of certain products that are deemed hazardous, including household batteries, fluorescent bulbs and tubes, thermostats and other items that contain mercury, as well as electronic devices such as video cassette recorders, microwave ovens, cellular phones, cordless phones, printers, and radios; and,

WHEREAS, it is anticipated that the list of Universal and other waste products determined to be hazardous and therefore banned from Municipal Solid Waste landfills will continue to grow as demonstrated by the ban of treated wood effective January 2007 and medical sharps in September 2008; and,

WHEREAS, state policies currently make local governments responsible for achieving waste diversion goals and enforcing product disposal bans, both of which are unfunded mandates; and,

WHEREAS, Universal Waste management costs are currently paid by taxpayers and rate payers and are expected to increase substantially in the short term unless policy changes are made; and,

WHEREAS, local governments do not have the resources to adequately address the rising volume of discarded products; and,

WHEREAS, costs paid by local governments to manage products are in effect subsidies to the producers of hazardous products and products designed for disposal; and,

WHEREAS, costs paid in FY 07/08 for managing Alameda County's household hazardous waste (excluding electronic scrap) was equivalent to \$2,200 per ton; and,

WHEREAS, the Alameda County Waste Management Authority (ACWMA) Board supports statewide efforts to hold producers responsible for Universal Waste products and other product waste management costs; and,

WHEREAS, there are significant environmental and human health impacts associated with improper management of Universal Waste, sharps, pharmaceuticals, and other products; and,

WHEREAS, Extended Producer Responsibility (EPR) is a policy approach in which producers assume responsibility for management of waste products and which has been shown to be effective; and,

WHEREAS, when products are reused or recycled responsibly, and when health and environmental costs are included in the product price, there is an incentive to design products that are more durable, easier to repair and recycle, and less toxic; and,

WHEREAS, EPR framework legislation establishes transparent and fair principles and procedures for applying EPR to categories of products for which improved design and management infrastructure is in the public interest; and,

WHEREAS, the California Product Stewardship Council (CPSC) is an organization of California local governments working to speak with one voice in promoting transparent and fair EPR systems in California; and,

WHEREAS, the ACWMA Board recognizes the need to incentivize manufacturers to reduce the toxics in their products and design them to be reusable and recyclable; and,

WHEREAS, in January 2008 the California Integrated Waste Management Board adopted a Framework for an EPR System in California; and,

WHEREAS, in July 2008 the National Association of Counties adopted a resolution in support of a framework approach to EPR;

NOW, THEREFORE BE IT RESOLVED, that by adoption of this Resolution, the ACWMA Board urges the California Integrated Waste Management Board or its successor agency to continue taking timely action to implement the Framework for an EPR System in California to manage problematic products, and to urge the Department of Toxic Substances Control to implement the Green Chemistry initiative to manage Universal and other toxic products; and,

BE IT FURTHER RESOLVED, that the ACWMA Board urges the California Legislature to enact framework EPR legislation which will give producers the incentive to design products to make them less toxic and easier to reuse and recycle; and,

BE IT FURTHER RESOLVED, that the Executive Director of the ACWMA be authorized to support the California Product Stewardship Council (CPSC) in their goals to educate and advocate for EPR policies and programs; and

BE IT FURTHER RESOLVED, that the ACWMA Board encourages all manufacturers to share in the responsibility for eliminating waste through minimizing excess packaging, designing products for durability, reusability and the ability to be recycled; using recycled materials in the manufacture of new products; and providing financial support for collection, processing, recycling, or disposal of used materials.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gary Wolff, PE, PhD
Executive Director