

Packaging Waste Challenges

China Ban on Imported Recyclables Complicates Legislative Mandates on Recycling

Packaging serves a number of functions in society, including ensuring safe transport of products, extending the lifespan of products before use, preventing food waste, containing labeling requirements, and other health protection functions. The businesses that sell and ship packaged products need packaging to meet consumer demand and move goods that drive California's economy. Inevitably, packaging also generates solid waste when it is not properly recycled. The California Department of Resources Recycling and Recovery (CalRecycle), the agency responsible for administering and providing oversight for all California's state-managed nonhazardous waste handling and recycling programs, estimates packaging comprises approximately a quarter of the waste stream disposed of each year in California. CalRecycle's own data also indicates packaging waste has decreased in the overall disposal stream from 9.5 million tons in 2008 to 8 million tons in 2014.

In 2011, the California Legislature passed and the Governor signed AB 341 (Chesbro; D-North Coast; Chapter 476, Statutes of 2011), establishing a policy goal that not less than 75% of solid waste generated in California be source reduced, recycled, or composted by 2020. AB 341 directed CalRecycle to develop a statewide strategy to reach the 75% goal and to submit a report to the Legislature by January 1, 2014, outlining proposed strategies for achieving the goal. AB 341 further mandated recycling by all businesses and public entities that generate four or more cubic yards of solid waste per week and multifamily

residential dwellings that have five or more units. Each jurisdiction is required to implement a mandatory commercial recycling program with education, outreach, and monitoring components. CalRecycle estimates California will need to reduce waste disposal by 24 million tons to meet the 75% reduction goal.

CalRecycle acknowledges there is no one-size-fits-all policy tool that can be applied to packaging due to the differences in, among other things, materials, recyclability, end-market profitability, and reuse capabilities. This is especially true due to recent changes to international policies restricting foreign imports of recyclable materials, restricting contamination levels in recycling streams, and a declining global market value for some recyclables. If CalRecycle focuses only on certain types of packaging for mandatory programs, thereby picking "winners and losers" in the marketplace, manufacturers are likely to switch to alternative materials of packaging types simply to avoid regulatory requirements.

CHINA'S 'NATIONAL SWORD' POLICY BANS MOST FOREIGN IMPORTS OF RECYCLABLES

Significantly complicating California's 75% reduction goal is China's recent ban on certain imported recyclables. Every year, California exported approximately a third of the recyclable materials it collects primarily to China. China purchased recyclables to fuel its own massive manufacturing sector—importing recyclable waste from across the world and exporting it back in the form of new manufactured products such as clothing or toys.

But in March 2018, China officially stopped accepting the import of 24 kinds of materials, including low-grade plastics and unsorted mixed paper. China's shift in policy began at least as early as 2013, when China warned that it would restrict the amount of recyclables it would buy unless contamination was reduced significantly.

After contamination levels did not improve significantly, China limited its acceptance of imported recyclables to contamination levels at 0.5% or less—a difficult level by any measure. As the average percentage of contamination in the United States is about 22%, the new contamination level set by China effectively banned from the Chinese market a large swath of the world's export of recyclables.

Before implementing its National Sword policy, China was the largest importer of post-consumer recyclables in the world,

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accounting for approximately 60% of all exported recyclables purchased globally. When China significantly reduced its imports, global demand for post-consumer recyclables declined precipitously. Today, there is a massive oversupply of low-quality recyclables in the market and a strong demand for high-quality recyclables, but at a much lower price point than in previous years. The recyclables market has been so disrupted by China's policy change that many U.S. jurisdictions now are either stockpiling unsold recyclables on site, or sending them directly to the landfill.

Legislation mandating more recycling of packaging and other consumer products must account for complex market realities of the current and future global recycling market. For example, without a market to sell to like China, substantially lower demand for post-consumer recyclables means that more otherwise-recyclable goods will be worth no more than garbage.

In addition, the dramatic growth of online sales is creating new freeriding opportunities for out-of-state businesses. Data from the U.S. Department of Commerce indicates that e-commerce sales in the United States amounted to \$115.3 billion in the third quarter of 2017, growing around nine times faster than traditional in-store sales in the last decade. As consumers are able to buy more easily from sellers in other countries that have no physical legal entity in California or even the United States, these foreign companies avoid having to register with national or local recycling schemes, thereby avoiding producer and retailer/distributor obligations and costs imposed by California legislation. In-state businesses are placed at a significant competitive disadvantage by having to comply.

EXPECTED LEGISLATION IN 2019

The 2017–2018 legislative session saw a number of bills attempting to either ban certain types of packaging or mandate a percentage of post-consumer recycled plastic in products. SB 1335 by Senator Ben Allen (D-Santa Monica) began as a ban on styrene for any food packaging sold in state facilities. The bill was amended later to be a material-neutral bill directing CalRecycle to study which food packaging products are reusable, recyclable or compostable. SB 1335 was signed into law. SB 168 by Senator Bob Wieckowski (D-Fremont) required CalRecycle to establish minimum post-consumer recycled content standards for plastic beverage containers. The bill died in the Assembly.

In 2019, the California Chamber of Commerce anticipates a significant increase in the number of bills pursuing Extended Producer Responsibility (EPR) programs, which are policies that require manufacturers to look at the full life cycle of a product and finance the costs of collecting and recycling or safely disposing of products consumers no longer want. CalRecycle's perspective is that EPR is best applied to a broad set of packaging

rather than individual packaging materials due to the lack of economies of scale associated with separately collecting and managing different types of packaging.

The anticipated legislation in 2019 could implement EPR in four ways, in order of most likely to least:

1. **Physical responsibility** mandating that the producer engage in the collection, processing, and treatment or disposal of its products or packaging at the end of the life cycle.

2. **Financial responsibility** mandating the producer pay part or all of the costs associated with the physical management of the waste generated by its products or packaging.

3. **Informational responsibility** mandating the producer provide information to consumers regarding the environmental impact of its products or packaging. Producers may supply data concerning the environmental impact of the product throughout its life cycle, toxic components, appropriate handling and use, or proper disposal techniques.

4. **Legal responsibility** extending to the producer's traditional liability for its products or packaging to the end of life cycle stage.

EPR programs will be a significant challenge for California businesses that would be responsible for bearing the costs of disposal/recycling of their products under EPR. Ultimately, these costs will be passed on to consumers through higher-priced products.

CALCHAMBER POSITION

The CalChamber supports economically practical recycling programs that yield environmental benefits. We believe that governments can set reasonable objectives which take into account market realities, but should avoid mandating the exact processes to achieve those objectives. By letting businesses that best understand the technical and practical realities of the challenges before them, markets clear themselves of the problem in the most efficient and cost-effective manner while still achieving the environmental benefits sought by the legislation.

CalChamber encourages CalRecycle to more thoroughly evaluate the effectiveness of EPR compared to an increase in the recycling and recovery of packaging in the context of the California market. Comparisons with EPR programs in other countries do not necessarily reflect the market here in California.



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