

A Perfect Storm for Extended Producer Responsibility (EPR) in California

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In February 2006, a statewide ban went into effect in California that made it illegal for households and small businesses to put certain commonly-used products in the trash, including small batteries, fluorescent lights, and many electronic products. These products contain hazardous materials that pollute the environment if disposed in landfills that are not designed or permitted to accept hazardous waste.

Local governments in California are now expected to pay for the special handling that these products require when disposed as hazardous wastes in specially-designed landfills, and also for enforcing the ban on placing these materials in the trash. The City of San Francisco anticipates that its additional costs will exceed \$5 million per year. San Luis Obispo County, on California's central coast, calculated that the current annual budget of \$300,000 for collecting household hazardous products would have to increase to \$4 million to collect and deal with the items now subject to the disposal ban. No funding for these programs accompanied the State mandate.

The Universal Waste Ban, or "U-waste" Ban as it is known, has caused many local officials in California to ask a fundamental question: Why should managing hazardous products be the responsibility of local government? Shouldn't it instead be the responsibility of the producers of the products who control product design and marketing?

Increasingly, local officials are realizing that municipalities simply do not have the capacity or funding to manage hazardous product wastes from households and small businesses. Moreover, by providing "free" disposal service to the producers of toxic and disposable products, local governments subsidize the production of hazardous goods, since the costs of disposal are borne by the public rather than the producers and users of the product.

Over the past 100 years many other now-standard costs of doing business have been shifted from the public's shoulders to business' bottom line, such as health and safety costs following the Triangle Shirt Factory, pollution prevention following the Cayuhoga River catching fire, and consumer safety costs following the publication of Nader's *Unsafe at any Speed*.

Extending producer responsibility for waste management is a similar public to private shift that has been implemented in Europe and parts of Asia and is now

being adopted by a growing number of jurisdictions in North America. Known as Extended Producer Responsibility (EPR), the policy requires brand owners (or first importers) who sell hazardous products to implement a program for recovering and responsibly recycling their products at no cost to taxpayers or local government. Because the cost is borne by producers and consumers directly, EPR policies act as market-based incentives to address the problem at the source, rewarding improved product design.

The Canadian province of British Columbia (BC) has the most advanced EPR policies in North America. In late 2004, BC updated its EPR programs for paint, solvents, pesticides, residual fuel, pharmaceuticals, automotive oil products and beverage containers by rolling them into a framework Recycling Regulation that establishes procedures for adding new product categories. These products no longer burden municipal recycling programs. Since 2004, electronic discards have been added to the regulation.

In March 2006, Governor Christine Gregoire of Washington signed into law the strongest EPR program so far in the U.S., applying to old TVs and computers. Before implementation in January 2009, product brand owners are required to submit plans to the State of Washington detailing how they will recover and recycle their products at no cost to local governments. The law allows for competing collection plans and incentivizes aggressive collection performance with financial rewards. State government is responsible for approving plans and for ensuring transparency and accountability.

Following implementation of the California Universal Waste Disposal Ban in February 2006, the City of San Francisco passed a resolution calling for EPR for a range of products starting with universal waste products. The resolution, which acknowledges that City-funded waste services are a “subsidy” to the producers of toxic products, has created considerable interest among other local governments, both in California and beyond. The resolution directs City staff to develop take-back specifications for City equipment purchases and also to lobby for state-wide producer responsibility legislation.

Local governments in both Washington State and British Columbia were the critical factor in passage of EPR legislation. The Universal Waste Ban in California is providing the “perfect storm” for local governments to band together to seek a statewide EPR solution to banned hazardous products.