

Statement of Reasons in Support of Amendments to § 22a-241b-1 and § 22a-241b-2 of the Regulations of Connecticut State Agencies

This Statement of Reasons concerns proposed amendments to expand the list of designated recyclable items in Connecticut. These regulatory revisions are being proposed under the authority of sections 22a-6 and 22a-241b of the Connecticut General Statutes and are adopted pursuant to Public Act 10-87.

I. Introduction

The proposed regulatory revisions update the list of designated recyclable items that every person and entity in Connecticut is required to recycle. Pursuant to Public Act 10-87, the Department of Energy and Environmental Protection is required to expand the list of designated recyclable items in Regulations of Connecticut State Agencies ("RCSA") section 22a-241b. The proposed regulations include only those items specified in Public Act 10-87 including certain plastic containers, magazines, and boxboard. The purpose of this revision is to promote recycling in the state by ensuring easily recycled materials are diverted from disposal, thereby conserving energy and natural resources. In addition to environmental benefits, increased recycling helps municipalities save money by reducing costs due to decreasing the volume of solid waste disposed.

Connecticut law currently requires the following items to be recycled: glass food and beverage containers, metal food and beverage containers, newspapers, corrugated cardboard, white office paper (households exempt), scrap metal, lead-acid batteries, nickel-cadmium batteries, used motor oil, leaves and grass clippings. The proposed regulatory revisions expand the list of designated recyclable items as follows:

- containers of three gallons or less made of polyethylene terephthalate [PET #1] plastic and high-density polyethylene [HDPE #2] plastic; and
- additional types of paper, including, but not limited to, boxboard, magazines, residential high-grade white paper and colored ledger.

According to the Connecticut 2009 Statewide Solid Waste Composition and Characterization Study¹, these potentially recyclable materials are in the top ten materials currently disposed of statewide. These materials are valuable and can be reused to make other products when recycled. Expanding the volume of materials recycled sustainably moves Connecticut to its vision of reducing the amount of waste it disposes and treating waste materials as a resource. Almost all towns are already collecting the proposed additional designated recyclable items either curbside or at municipal transfer stations, and the infrastructure to recycle such items is in place in almost all locales. The addition of the proposed new materials are similar to the materials received at the existing recycling facilities and can be incorporated into the existing infrastructure capacity.

The proposed revisions reflect strategy #2-2 of the Solid Waste Management Plan for Connecticut and Policy Action #43 of the Connecticut Climate Change Action Plan.

These proposed revisions are consistent with Public Act 10-87 and do not conflict with any existing laws or regulations.

II. Summary of Comments Received

For these proposed revisions, no hearing was requested or held, and written comments were required to be submitted not later than 4:30 p.m. on October 6, 2011. Only one set of comments was received. The commenter, the American Chemistry Council's Plastics Division (ACC), was supportive of the revisions and of the recycling of plastics in general. The commenter also suggested some specific additional revisions to potentially clarify the proposed revisions.

A. General Comments on Proposed Revisions to RCSA sections 22a-241b-1 and 22a-241b-2 and Responses Thereto

Commenter points out that section 22a-241b of the Connecticut General Statutes independently authorizes the Commissioner of Energy and Environmental Protection to

¹http://www.ct.gov/dep/lib/dep/waste_management_and_disposal/solid_waste/wastecharstudy/ctcompositioncharstudymay2010.pdf

“designate other items as suitable for recycling and amend said regulations accordingly.”

Commenter suggests that the Commissioner propose amending the regulations to designate all rigid plastic bottles and containers for recycling, in addition to the revisions proposed to implement the specific requirements of Public Act 10-87.

Response: The Department agrees with the commenter regarding the benefits of recycling additional plastics, but does not think that making the significant revision of adding #3 - #7 plastics to the proposed regulations at this point (after the public comment period has ended) is warranted since it goes beyond the scope of revisions required by Public Act 10-87. At this time, the Department is only addressing the requirements of Public Act 10-87. The addition of other items can be considered in the future.

B. Specific Comments on Proposed Revisions to RCSA sections 22a-241b-1 and 22a-241b-2 and Responses Thereto

1. Comments on section 22a-241b-1(5) and 22a-241b-1(14)

Commenter suggested the definitions for “High density polyethylene container” and “Polyethylene terephthalate container” be modified as follows:

- DEEP should strike the description, “is composed primarily,” for both definitions, since the objective is to collect recycling containers that are made entirely of a particular plastic resin since a plastic bottle made of “mixed” shredded plastics from multiple resin sources cannot be recycled in the same stream as homogenous plastics streams.
- Commenter suggested the description “a saturated thermoplastic resin” be deleted from the description for “Polyethylene terephthalate container” as it is not needed to describe this commodity plastic resin.
- For both definitions, commenter suggested that "Plastic Container" should be defined as any plastic package having a relatively inflexible finite shape or form, with a minimum capacity of eight fluid ounces or its equivalent volume and a maximum capacity of three fluid gallons or its equivalent volume, that is capable of maintaining its shape while

holding other products, including, but not limited to, bottles, cartons, and other receptacles.

- For both definitions, commenter suggested that the specific product examples be deleted as these examples are better provided in agency guidance rather than by regulation. This is in part due to the nature of changing developments with packagers with respect to what plastic they elect to use.
- Commenter suggested that to the extent that resin codes are referenced, they should be properly referred to as ASTM Resin Identification Codes, and should be referenced with respect to the applicable ASTM standard that codifies them (i.e., ASTM D7611.5).

Response: The definitions for “High density polyethylene container” and “Polyethylene terephthalate container” have been revised as follows in response to the commenter’s suggestions. The term “a saturated thermoplastic resin” was left in the definition of “PET container” as that term is also used in the Connecticut Plastic Bottle Coding regulation, section 22a-255b-1 of the RCSA.

As Proposed

22a-241b-1(5) “High density polyethylene container” or “HDPE container” means a rigid container that, exclusive of closure or label, is composed primarily of high density polyethylene with a density of 0.94 grams per cubic centimeter or greater, has the resin code of 2, and is generally used to package milk, laundry detergent, and other food and non-food products. As used in this section: HDPE containers shall not include containers which contained motor oil, pesticides, herbicides or other hazardous substances.

As Revised

22a-241b-1(5) “High density polyethylene container” or “HDPE container” means a plastic container that, exclusive of closure or label, is composed of high density polyethylene with a density of 0.94 grams per cubic centimeter or greater, and has an ASTM Resin Identification Number of 2 as defined in ASTM D7611 Standard Practice for Coding Plastic Manufactured Articles for Resin Identification . As used in this section, HDPE containers shall not include containers which contained motor oil, pesticides, herbicides or other hazardous substances.

As Proposed

22a-241b-1(14) “Polyethylene terephthalate container”, “PET container”, or “PETE container” means a rigid container, exclusive of closure or label, which is composed primarily of polyethylene terephthalate, a saturated thermoplastic polyester resin, which has a resin code of 1 and is used to package soft drinks, water, peanut butter, shampoo, and

other food and non-food products. As used in this section: PET or PETE containers shall not include containers which held motor oil, pesticides, herbicides or other hazardous substance.

As Revised

22a-241b-1(15) “Polyethylene terephthalate container”, “PET container”, or “PETE container” means a plastic container that, exclusive of closure or label, is composed of polyethylene terephthalate, a saturated thermoplastic polyester resin and has an ASTM Resin Identification Number of 1 as defined in ASTM D7611 Standard Practice for Coding Plastic Manufactured Articles for Resin Identification. As used in this section, PET or PETE containers shall not include containers which held motor oil, pesticides, herbicides or other hazardous substances.

In addition, a new definition for “Plastic Container” is being added in response to comments, and the numbering of subsequent definitions was revised to reflect this addition.

(14) “Plastic Container” means any plastic packaging having a relatively inflexible finite shape or form, with a maximum capacity of three fluid gallons or its equivalent volume, that is capable of maintaining its shape while holding other products, including, but limited to, bottles, cartons and other receptacles.

2. Comments on section 22a-241b-2(a)(1)

Section 22a-241b-2(a)(1) of the regulations references containers of three “gallons” or less for both PET and HDPE. Commenter suggests that “three fluid gallons or its equivalent volume” be adopted since a consistent volumetric measure is needed to adjust for containers used for dry goods and liquid products.

Response: The new definition for “plastic container” in section 22a-241b-1(14) integrates the commenter’s suggestions regarding container volume. Also, section 22a-241b-2(a)(1) is revised as follows to remove the reference to container volume:

As Proposed

22a-241b-2(a)(1) The following items are required to be recycled by each municipality [within] not later than [three] six months [of] after availability of service to the municipality by a regional processing center or local processing system: (A) boxboard, [(A)](B) cardboard, [(B)](C) glass food containers, (D) HDPE containers, three (3) gallons or less, [(C)](E) leaves, (F) colored ledger paper, (G) magazines, [(D)](H) metal food containers, [(E)](I) newspaper, [(F)](J) office paper, (K) PET or PETE containers, three (3) gallons or less, (L) residential high-grade white paper, [(G)](M) scrap metal, [(H)](N) storage batteries, and [(I)](O) waste oil.

As Revised

22a-241b-2(a)(1) The following items are required to be recycled by each municipality [within] not later than [three] six months [of] after availability of service to the municipality by a regional processing center or local processing system: (A) boxboard, [(A)](B) cardboard, [(B)](C) glass food containers, (D) HDPE containers, [(C)](E) leaves, (F) colored ledger paper, (G) magazines, [(D)](H) metal food containers, [(E)](I) newspaper, [(F)](J) office paper, (K) PET or PETE containers, (L) residential high-grade white paper, [(G)](M) scrap metal, [(H)](N) storage batteries, and [(I)](O) waste oil.

2/7/2012

Date

/s/ Chris Nelson

Chris Nelson

Supervising Environmental Analyst