



Connecticut

Product Stewardship Council

CT Product Stewardship Council Testimony on RB 232 (Oppose), RB 233 (Oppose), and RB 226 (Support in Concept) Concerning Batteries, Packaging and Plastic Bags

Friday, March 4, 2016

Sen. Kennedy, Rep. Albis, Sen. Chapin, Rep. Shaban and Members of the Environment Committee:

Product stewardship is the act of minimizing the health, safety, environmental and social impacts of a product and its packaging while maximizing the economic benefits throughout all lifecycle stages. While the producer of the product has the greatest ability to minimize adverse impacts, other stakeholders such as suppliers, retailers and consumers also play a role. Stewardship programs can be either voluntary or required by law. When required by law, the programs are called extended producer responsibility or EPR. EPR laws require producers to take responsibility for the post-consumer management of their products and packaging by shifting that responsibility away from the public sector and incentivizing producers to take into account environmental considerations in the design and packaging of their products. *(This definition of product stewardship is paraphrased from the draft CT DEEP Comprehensive Materials Management Plan — formerly known as the State Solid Waste Management Plan—dated 2/5/16.)*

To date, the State of Connecticut has adopted three successful EPR programs for e-waste, paint and mattresses. The CT DEEP has named the expansion of product stewardship/EPR programs in the state as one of the three objectives that must be achieved in order to meet the State's goal of 60% diversion of solid waste by 2024 as prescribed by law in P.A. 14-94.

We are the CT Product Stewardship Council (CT PSC), created in 2009, and made up of representatives from CT solid waste regions and/or COGS, individual municipalities and NGOs such as the Sierra Club, Citizens Fund for the Environment, Clean Water Action, and the CT Recycler's Coalition. Together our regional and municipal members represent more than two-thirds of the state's municipalities including small rural towns such as Redding and Sherman to large urban cities such as Hartford and New Haven.

Over the last seven years the CT PSC has been intimately involved in the negotiations with industry to develop language for the paint and mattress legislation and for potential battery legislation. Through the national organization, the Product Stewardship Institute, we consult with state and local governments, NGO leaders and industry representatives across the U.S. and Canada through regular conference calls on various product stewardship categories such as paint, batteries, pharmaceuticals, packaging, phone books, household hazardous waste, tires and more. Some of our members have developed special expertise in specific product categories serving on product stewardship panels at regional and national conventions. In addition, the CT PSC members have helped spur and even contributed funding to two-day , in person, national dialogues among stakeholders on various products such as paint, mattresses, batteries, and carpet, three of which were held in the State of CT. CT PSC has provided assistance to DEEP as

well as industry and local governments across the State in the implementation of the EPR laws passed to date. The CT PSC was deeply involved in the product priority-setting process for EPR undertaken by CT DEEP in 2012, and a number of our members served on the Governor's Modernizing Recycling Working Group in 2012. Many of the CT PSC members are also members of DEEP's Solid Waste Advisory Committee (SWAC) and regularly attend or even present at SWAC. We are an all-volunteer, representative group of diverse local experts in solid waste, recycling and product stewardship, with literally hundreds of combined years of experience in the solid waste, recycling and product stewardship trenches in this state. Our goal is to see the notion of solid waste disposal transformed into the notion of materials management through producer responsibility/EPR programs.

To that end we are opposed to RB 232 for battery recycling and to RB 226 concerning single-use carryout bags as they are not EPR bills and thus are not consistent with our mission or with the draft State Comprehensive Materials Management Strategy (CMMS). And, we support the concept of RB 233 for reducing consumer-based packaging materials but would like to see the language broadened and made more consistent with the CMMS.

RB 232 – An Act Concerning the Recycling of Consumer Household Batteries - The draft bill is very disappointing after all the work that has been done jointly by the battery industry, CT DEEP, PSI and the CT PSC over the last three years to reach agreement on the elements that should be included in an all-battery stewardship bill. We have an industry asking for, and willing to take on, an EPR program for all batteries. The unprecedented cooperation within the industry was announced at, and in part made possible by, the dialogue meeting held here in Connecticut. Due to free rider problems, an all-battery EPR stewardship program has become necessary in order to save the voluntary product stewardship program undertaken by the rechargeable battery industry in 1994, but this bill offers industry no opportunity to create such a program.

Adding household batteries to the state's mandatory recyclable list and making municipalities, haulers and recycling processors responsible for providing battery recycling to residents is unworkable. Household batteries cannot be collected in single stream recycling because they can't be pulled out and processed at our MRFs – the recycling processing centers that separate, bale and sell the commodities collected in single stream. In addition there is a fire danger in throwing a number of unpackaged batteries into a container all together. Under the proposed bill, funding would fall on the shoulders of overstrained municipal budgets, whereas EPR would allow industry to absorb the costs for a fraction of a cent per battery. In addition, with a battery EPR program, CT municipalities would save an estimated \$100,000 to \$200,000 per year in current municipal solid waste and household hazardous waste disposal costs.

We urge the Environment Committee to put forward language that is modeled on the State's other successful EPR programs, that includes both primary and rechargeable batteries as well as all battery containing products with batteries that are easily removed by the consumer, that includes both residential and business use batteries, that includes convenience standards for the public and performance standards for the program, and that includes a private right of action for the battery industry against free riders that threaten the entire system.

In order to move the process forward, CT PSC could support the language from the bill proposed in Maine [ME battery EPR bill](#) that the battery industry also supports with the following additions/changes:

1. Add convenience standards and performance goals to the stewardship plan
2. Require the producers to pay a fee to cover DEEP's cost for plan review and program implementation costs.
3. Require the annual report to include the weight and type of material recycled, the estimated total sales of batteries and batteries contained in battery containing products, the collection rate, how collected batteries were managed and recycled, an evaluation of the effectiveness of methods used to achieve performance goals, and recommendations for any changes to the program.
4. Grant the Department the authority to require revision of the plan after five years.
5. Allow the opportunity for public comment on the proposed stewardship plans before they are adopted.
6. Do NOT provide for an automatic repeal. Instead require the Department to review the performance of the law after a set amount of time and submit a report to the Legislature with recommendations for program changes.

We are available to assist with review of specific language.

RB 226 – An Act Concerning Single-Use Carryout Bags – The draft bill does not propose how to reduce the quantity of single-use carryout bags in the State but only to require that they be made from more post-consumer recycled material. Most single-use carryout bags are currently recyclable, where collection opportunities exist, and increasing the recycled content of bags does not mean that the bags themselves will then become recyclable. It does nothing to reduce litter from single-use bags in our landscapes and waterways. In addition, the bill as proposed appears to unduly burden the retail grocery industry when single-use bags are distributed to customers in many other retail venues that do not sell food. Finally, the bill as written does not appear to address the recycling of all the many other types of plastic film other than single-use grocery bags.

CT DEEP, the CT PSC, and regional and local government solid waste professionals across the state have begun working with the American Chemistry Council, the plastic film industry, solid waste collectors, MRF operators, and the CT Food Association in order to increase the recycling of all plastic film in the state. That includes not just plastic grocery bags but also dry cleaning bags, newspaper bags, bread bags, product wrap from water bottles, paper towels, etc., small baggies, and many more.

The position of the CT PSC is that the policy goal in our State should be to reduce the amount of plastic film used, including single-use bags, rather than to mandate the content of that film, and that whatever plastic film must be used, should be managed at the end of its life by a product stewardship program, or an EPR program if necessary, negotiated among, and as fair as possible to, all the stakeholders in the process. Please note that single-use bags are a part of consumer-based packaging material covered by RB 233.

RB 233 An Act Concerning a Reduction of Consumer-Based Packaging Materials – The CT PSC supports the CT DEEP's proposed actions on packaging included in the Draft CMMS. The CMMS differs from the language proposed in this bill in the following important ways:

- The CMMS proposes to study and produce action for implementation of a packaging EPR system rather than just assess the viability of such a system as the bill proposes.
- Products to be included in such a system per the CMMS include not only packaging but also printed paper, which means most of the material now in a single stream recycling container.

- DEEP proposes to work with all stakeholders, not just those in the consumer packaging industry. Replacing the current recycling collection and processing system with a packaging and printed paper EPR system will impact many stakeholders in the current solid waste system in the state. It is important to get buy in from all stakeholders such as municipalities, solid waste collectors, MRF operators, transfer station operators, packaging businesses in the state, etc.
- The CMMS proposal would review all packaging and printed paper, not just consumer-based material. Perhaps that review would find that the focus should be on the residential stream, but it doesn't presuppose that such an EPR program would make sense for only residential materials.

Over the next two years the Department should host a dialogue on packaging/printed papers EPR to help educate all stakeholders on the options available, how such programs work in other countries, what the best program would be for CT, the opportunities available for existing businesses to participate in the new program and to develop a consensus for moving forward with an EPR program that all stakeholders can support.

The CT PSC suggests that, given the many products that eventually could be included in a stewardship program, and the primary role that producer responsibility and EPR play in the draft CMMS, that the Environment Committee consider revising this bill to require the Department to study not consumer packaging but instead a product stewardship framework. A framework legislative approach establishes an overarching product stewardship policy and streamlines the process of creating product stewardship laws. Framework legislation establishes a consistent means of recommending and listing additional products to be covered by a product stewardship program and can, therefore, provide the business community with a more stable regulatory environment. Maine adopted product stewardship framework legislation in 2010 and it is under consideration in at least six other states.

Thank you for the opportunity to offer our comments on these three bills. We applaud the Environment Committee's commitment to product stewardship to reach the 60% solid waste diversion goal by 2024. We want to work with you, the CT DEEP, affected industries, retailers, municipalities, haulers, MRFs and all stakeholders to move product stewardship programs for batteries, plastic film, packaging and printed papers forward in a collaborative fashion. Please do not hesitate to contact us if you have any questions or if we can help in any way. You can contact us by e-mail at info@productstewardship.com.

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