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November 21, 2019

Dear Senator Udall and Representative Lowenthal,

The National Waste & Recycling Association (NWRA) remains strongly opposed to your proposed federal Extended Producer Responsibility legislation. While we appreciate the addition of language pertaining to minimum recycled content to this discussion draft as NWRA advocated for during the initial comment period, we believe that other aspects of the bill are counterproductive to the overall goal and negate whatever good may be accomplished by way of it. We are especially troubled by the proposed national container deposit, the one-size fits all approach to recycling collection, and the potential that this bill will lead manufacturers to label items as recyclable even though there is no market for the materials.

NWRA is the voice in the nation's capital for the private-sector waste and recycling industry that is essential to maintaining the quality of American life. The industry directly employs about 450,000 people as of mid 2019 with a total payroll of more than \$28 billion. It is estimated that the private sector waste and recycling industry accounts for over one million jobs and generates nearly a quarter of a trillion dollars in U.S. GDP.

Our members operate in all 50 states and the District of Columbia and can be found in most, if not all, U.S. congressional districts. Waste and recycling facilities number nearly 18,000 scattered throughout the U.S., mirroring population centers. Our nearly 700 members are a mix of publicly-traded and privately-owned local, regional, and Fortune 500 national and international companies. NWRA represents approximately 70 percent of the private sector waste and recycling market.

There are better ways to address the issue of reducing plastic waste pollution than by product stewardship (PS) or extended producer responsibility (EPR) financing schemes. PS/EPR only serves to insert the government further economically between citizens, local governments, consumer products manufacturers and packaging companies, and our recycling industry.

Under PS/EPR, people would be forced to pay twice for recycling, first through their taxes and fees that fuel our recycling systems and then through higher prices on consumer goods to pay for EPR. Groceries, ordering or sending packages, and purchasing everyday products and appliances for their homes or businesses would all become more expensive. This amounts to a regressive tax that hits low-income individuals the hardest.

A national container deposit or "bottle bill" as is proposed in this legislation harms traditional recycling by taking valuable commodities out of the recycling stream thereby disrupting the industry's business model. Requiring consumers to transport and deposit their recyclables at collection facilities removes up to 50 percent of plastics and aluminum from recycling streams. This reduction in these valuable commodities increases curbside recycling costs for customers and municipalities. It may also threaten public and private recycling facilities, forcing them to cut jobs or shut down due to loss of revenue. Additionally, it would require creation of a separate system apart from the traditional recycling stream thereby duplicating logistics and increasing costs.

State bottle bills were instituted as litter abatement programs before curbside recycling was initiated and now are used by just ten states as they are an inefficient method of managing post-use of the product. Furthermore, just because a bottle has been redeemed does not mean that it will be recycled and may still wind up in a landfill.

Earlier this year, California's biggest bottle redemption center chain, rePlanet, announced that it was ceasing operations in California and closing all 284 of its locations. Even with the support of funds from deposits, it was ultimately financially unsustainable. Consumers were redeeming only about half of the deposits that they paid and were instead utilizing their curbside recycling bins, which from a sustainability perspective is the better choice. Furthermore, curbside recycling provides efficiencies not enjoyed by container deposit redemption centers.

Delaware's container deposit law was failing for years before they abandoned it in favor of curbside recycling. According to the Delaware Department of Natural Resources and Environmental Control, the state's recycling rate climbed from 32.6 percent under the bottle bill law to 44.5 percent in 2016 under curbside recycling.

It is also beneficial to compare container recycling rates for places that require deposits with those that do not. In New York City and Boston where there are state laws mandating container deposits, their container recycling rates are less than 20% and 25% respectively while Seattle and Austin have rates of 60% and 42% respectively despite their states not requiring deposits.

These deposits also amount to a hidden tax / fee on consumers with contradictory aims. Is the real purpose of this component of the legislation to get consumers to return containers or is it in hopes that they do not return the containers so as to generate revenue for recycling infrastructure?

Perhaps most importantly, bottle bills do not generate markets for recyclables, which have already been negatively impacted by China's import ban.

The pressure that the labeling section of the legislation places on manufacturers will lead to an increasing number of items being labeled as recyclable, completely ignoring not only technical recycling capabilities, but whether there even is a market for a particular material. This kind of thinking has led to the high contamination rates in our recycling stream today resulting in China's ban on the importation of recyclable materials, the cessation of several localities' recycling programs, and the stockpiling or even landfilling of recyclables.

Currently, there is considerable pressure on recycling facilities to accept materials for which there are limited markets so that retailers and manufacturers can make recyclability claims. Because those markets are marginal to begin with, they are generally unstable and costly. We have a concern that this legislation may drive product manufacturers to label their materials as recyclable while there is no end market. This can put enormous pressure on our materials recovery facility (MRF) infrastructure which could result in increased contamination. The most important criteria is whether the material is ultimately made into new products.

The call for one-size fits all recycling collection is also misplaced as different areas have different recycling capabilities which may be driven by market demand for recycled products. Increased public education on what localities' recycling programs will accept, not a one-size fits all prescription, is the solution.

We can achieve the same end of reducing plastic waste pollution by encouraging more recycled content in the manufacturing of plastic products, improving products through better consumer product and product packaging designs, and by providing tax and other incentives to promote the development of new domestic markets and increased domestic recycling capacity.

Congress should move forward with legislation encouraging use of minimum recycled content to bolster the domestic market for these commodities, incentivizing increased domestic recycling capacity, and providing resources for localities to better educate their citizens on what their local recycling programs can process.

Such investments would have the potential to create greater stability in the existing recycling infrastructure and spur the development of domestic processing facilities in order to solidify a truly closed loop for single-use plastic products.

Sincerely,

A handwritten signature in black ink that reads "Darrell K. Smith". The signature is written in a cursive style with a large, prominent "D" and "S".

Darrell K. Smith, PhD
President and CEO