

Comments in response to CCSMM public engagement questions

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To: DEEP RecyclingProgram

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Please see attached comments from Conservation Law Foundation in response to CCSMM's public engagement questions. Please contact me if you have any questions or would like to discuss any of the information contained within these comments.

Thank you,

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For a thriving New England

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Conservation Law Foundation Comments to the Connecticut Coalition for Sustainable Materials Management

Thank you for the opportunity to provide comments to the Connecticut Coalition for Sustainable Materials Management (CCSMM) and the Department of Energy and Environmental Protection (DEEP) regarding your efforts to identify solutions to reduce waste and improve reuse, recycling, and organics collection in Connecticut. Conservation Law Foundation applauds your efforts to move Connecticut toward a more sustainable and just future that relies on waste reduction, diversion, reuse, and recycling. CLF is a member-supported nonprofit organization working to conserve natural resources, protect public health, and build healthy communities throughout New England. Through its Zero Waste Project, CLF aims to improve waste diversion and recycling programs and protect communities and our environment from the dangers of incineration and landfilling.

CLF incorporates by reference the comments submitted by the Connecticut Zero Waste Coalition. We offer the following comments in response to CCSMM's Public Engagement Questions to provide additional detail on five Zero Waste legislative solutions that CCSMM should consider and endorse in the upcoming 2021 legislative session: 1) bottle bill modernization; 2) enhanced organic waste collection and composting through improvements to Connecticut's existing organic waste law; 3) extended producer responsibility (EPR) for packaging; 4) statewide unit-based pricing; and 5) omnibus plastics legislation. Each of these legislative solutions is addressed in CLF's responses to the Public Engagement Questions below.

1. Are there any model programs, best practices, or innovative concepts that the Coalition should consider that could provide a scalable solution in any of the Focus Areas?

CCSMM should consider the following legislative solutions as a part of its working groups: bottle bill modernization (increase recycling working group); improvements to Connecticut's organic waste law (food scraps/organics collection & diversion working group); EPR for packaging (extended producer responsibility working group); statewide bagged unit-based pricing (unit-based pricing working group).

A. Bottle Bill Modernization

Bottle redemption programs are the single most effective way to collect materials for recycling. Deposits encourage individuals to redeem containers so that those containers can be recycled.

The two U.S. states with ten-cent deposits on beverage containers—Michigan and Oregon—have redemption rates at or above 90 percent.¹ By contrast, states without deposit return systems collect, on average, about 27 percent of their beverage containers for recycling.²

In 2018, Connecticut redeemed only 50% of its deposit containers.³ This is the lowest rate of all states with bottle redemption programs. The lagging redemption rate owes primarily to Connecticut's antiquated five-cent deposit, which has gone unchanged since the implementation of the bottle bill in 1980. Moreover, Connecticut has failed to update its bottle bill to include the wide variety of beverage containers that have become commonplace, such as juices, iced teas, energy drinks, and sports drinks, none of which are included in Connecticut's deposit return system.

As a result, every year Connecticut throws away more than 20,000 tons of PET plastic bottles, more than 5,000 tons of aluminum beverage containers, and more than 36,000 tons of glass containers.⁴ The vast majority of these containers are burned in Connecticut's waste incinerators, which disproportionately burden communities of color and low-income communities in Hartford and Bridgeport. Burning containers in these incinerators releases persistent organic pollutants (POPs), dioxins, polychlorinated biphenyls (PCBs), lead, arsenic, and mercury—all of which are toxic.⁵

To improve container recycling and address the health and environmental impacts that come with lagging container redemption rates, CCSMM should support statewide legislation that improves Connecticut's bottle bill by:

¹ See Genevieve Grippo, *An Effort to Dramatically Expand Michigan's Bottle Deposit Law is Back*, Newschannel 3, Dec. 29, 2019, <https://wwmt.com/news/local/an-effort-to-dramatically-expand-michigans-bottle-deposit-law-is-back>; Cassandra Profita, *Oregon Bottle Deposit System Hits 90 Percent Redemption Rate*, NPR, Feb. 4, 2019, <https://www.npr.org/sections/thesalt/2019/02/04/688656261/oregon-bottle-deposit-system-hits-90-percent-redemption-rate>.

² See Jenny Gitlitz, Container Recycling Institute, *Bottled Up: Beverage Container Recycling Stagnates (2000-2010)*, app. A (2013).

³ See Connecticut Department of Energy and Environmental Protection (DEEP), *CT Bottle Bill Redemption Data*, https://www.ct.gov/deep/Lib/deep/reduce_reuse_recycle/bottles/bottle_bill_data_-_thru_Q1_2019.pdf.

⁴ DEEP, *2015 Statewide Waste Characterization Study*, 3-5 (2016), https://portal.ct.gov/-/media/DEEP/waste_management_and_disposal/Solid_Waste_Management_Plan/CMMSFinal2015MSWCharacterizationStudy.pdf?la=en.

⁵ See David Azouly, *Plastic & Health: The Hidden Costs of a Plastic Planet*, 44–47 (2019), <https://www.ciel.org/wp-content/uploads/2019/02/Plastic-and-Health-The-Hidden-Costs-of-a-Plastic-Planet-February-2019.pdf>.

- 1) Increasing the handling fee paid to redemption centers and retailers;
- 2) Expanding the bottle bill to cover all non-carbonated beverages, wine, and liquor; and
- 3) Raising the deposit amount from 5 cents to cents.

These improvements will help divert material from polluting incinerators and expensive single-stream programs into a time-tested and effective recycling system.

B. Improved Organic Waste Law

Organic waste comprises more than 33% of Connecticut’s waste stream.⁶ Connecticut is incinerating almost 800,000 tons of waste each year that could be separated and composted.

Connecticut already has in place an organic waste law, CGS § 22a-226e, that requires commercial facilities that generate at least 52 tons of organic waste per year—and are located within 20 miles of a permitted composting or anaerobic digestion facility—to divert their organic waste for composting or digestion. As DEEP has recognized, Connecticut’s organic waste law has increased composting and anaerobic digestion capacity within the state and has driven interest in organics recycling.⁷

Connecticut was the first state in the U.S. to pass an organic waste ban, but it has since fallen behind the pace. Connecticut can, and should, look to the example set by Vermont, whose organic waste ban threshold has incrementally stepped down from 104 tons, to 52 tons, to 26 tons, to 18 tons, and then to apply to “any person who generates any amount of food residuals.”⁸ Vermont has also made \$975,000 in grants available for improving composting capacity,⁹ something Connecticut should emulate. By simultaneously requiring increased organics diversion and funding large-scale composting projects, Connecticut can drastically reduce the amount of organic waste it burns each year.

To that end, CCSMM should support statewide legislation that:

- 1) Eliminates the 20-mile radius restriction in CGS § 22a-226e;
- 2) Applies the organic waste restriction to the following persons:
 - a) Beginning July 1, 2022, a person who generates not less than 26 tons per year of source-separated organic materials;

⁶ See 2015 Statewide Waste Characterization Study, *supra* note 4, at 3-5.

⁷ See DEEP, *Commercial Organics Recycling Law, Information & Guidance for Food Residual Generators*, <https://portal.ct.gov/DEEP/Waste-Management-and-Disposal/Organics-Recycling/Commercial-Organics-Recycling-Law>.

⁸ Vt. Stat. tit. 10, § 6605k.

⁹ Vermont Agency of Natural Resources, *Composting Capacity Improvement Grants: Nearly \$1M Available*, <https://anr.vermont.gov/news/2018-composting-capacity-improvement-grants>.

- b) Beginning July 1, 2023, a person who generates not less than 18 tons per year of source-separated organic materials; and
- c) Beginning July 1, 2025, a person who generates any amount of organic residuals.

C. EPR for Packaging

Approximately 41% of Connecticut’s municipal solid waste is paper, plastic, metal, and glass¹⁰—packaging materials that are, or should be, recyclable. Packaging materials and paper products also comprise most of the material collected via increasingly expensive single-stream recycling systems in Connecticut. EPR for packaging provides an opportunity to shift the costs of collecting and processing these materials from towns, cities, and residents to the producers and manufacturers that maintain control over the design and sale of this packaging.¹¹ Moreover, by reallocating these costs, EPR for packaging can incentivize producers to design and distribute packaging that is reusable or more readily recyclable.¹²

More than 40 jurisdictions throughout the world—including five Canadian provinces and the European Union—have implemented some form of EPR for packaging.¹³ By way of example, Quebec has implemented a particularly effective EPR for packaging model.¹⁴ At least nine U.S. states are currently exploring EPR for packaging.¹⁵ Oregon is considering what could be an especially successful EPR for packaging system.¹⁶ Now is the time for Connecticut to lead on EPR for packaging to address its waste and recycling crises. CCSMM should support statewide EPR for packaging legislation that:

- 1) Requires producers of packaging materials, through a Producer Responsibility Organization (PRO), to fund 100% of the costs of collecting, transporting, and processing covered materials as well as education, outreach, and costs incurred by DEEP in overseeing the program;

¹⁰ See 2015 Statewide Waste Characterization Study, *supra* note 4, at 3-5.

¹¹ See Northeast Waste Management Officials’ Association (NEWMOA) & Northeast Recycling Council (NERC), *White Paper Extended Producer Responsibility (EPR) for Packaging & Paper Products*, 4 (2020), http://www.newmoa.org/solidwaste/EPR_for_PPP_White_Paper.pdf.

¹² *Id.*

¹³ *Id.* at 6.

¹⁴ See Eco Enterprises Quebec, *Extended Producer Responsibility (EPR) at the Core of an Effective System*, October 18, 2019, <https://www.eeq.ca/en/extended-producer-responsibility-at-the-core-of-an-effective-system/>.

¹⁵ NEWMOA, *supra* note 11, at 6.

¹⁶ See generally Recycling Steering Committee, *Recommended Concept for Modernizing Oregon’s Recycling System* (2020), <https://www.oregon.gov/deq/recycling/Documents/rscRecConcept.pdf>.

- 2) Differentiates fees paid by producers based on sustainability metrics, also known as eco-modulated fees;
- 3) Defines covered materials to include paper and all packaging materials not included in a modernized bottle bill;
- 4) Authorizes DEEP and an advisory board to oversee the program and the PRO;
- 5) Ensures that local governments, and not producers, retain control over collection and processing services; and
- 6) Sets recycling and reuse performance targets.

D. Statewide Unit-Based Pricing

As noted by DEEP during its CCSMM kickoff presentation on September 8, 2020, unit-based pricing, or Save Money and Reduce Trash (SMART), can reduce Connecticut’s municipal solid waste by more than 40%.¹⁷ SMART combined with separate food waste collection can reduce municipal solid waste by more than 60%.¹⁸

Not all unit-based pricing systems are created equal, and it is important for Connecticut to implement SMART in a way that will have the greatest impact. In general, bag-based SMART systems—where residents pay a set price per bag of waste—are much more effective than cart-based systems—where residents pay a variable monthly fee based on the size of their waste cart.¹⁹ Given the success rate of SMART programs across the U.S., the need for consistent and effective unit-based pricing, and the political challenges that come with efforts to adopt SMART on a town-by-town basis, CCSMM should support legislation that implements bag-based SMART statewide no later than January 1, 2022.

2. For any solution identified in Question 1, what are the barriers that need to be addressed in order to advance any of these solutions at scale in Connecticut?

Each of the four legislative priorities identified above in response to Question 1 are likely to face organized opposition from industry interests including, but not limited to, incinerator companies, waste haulers, producers of packaging, and the beverage industry. It is important to recognize this opposition for what it is: an attempt to protect the bottom line of corporate interests at the expense of public health and welfare and town and city budgets. Each of the legislative solutions

¹⁷ CCSMM, *Kickoff Meeting*, 22 (2020), https://portal.ct.gov/-/media/DEEP/waste_management_and_disposal/CCSMM/CCSMM-Deck-Kickoff-Mtg_GF.pdf.

¹⁸ *Id.* at 23.

¹⁹ Neil Seldman, Institute for Local Self Reliance, *Metering Residential Garbage Can Pave the Way to Zero Waste*, Aug. 15, 2018, <https://ilsr.org/metering-residential-garbage-can-pave-the-way-to-zero-waste/>.

outlined above can significantly impact Connecticut's ability to reduce its waste and protect its communities. These solutions have proven track records elsewhere and should be pursued aggressively and without being watered down.

- 3. For any solution identified in Question 1, please describe the types of implications or benefits that the solution provides with respect to:**
 - a. Sustainability-environmental benefits;**
 - b. Reducing costs.**

A. Bottle Bill Modernization

A fully modernized bottle bill offers multiple environmental benefits and can help towns and cities defray some of their spiraling waste and recycling costs. First, as outline above, Connecticut is currently incinerating tens of thousands of tons of beverage containers every year. The improved redemption rates that come with a modernized bottle bill would help keep many of those containers out of Connecticut's incinerators, thereby protecting communities forced to live near incinerators in Hartford, Bridgeport, Bristol, Preston, and Lisbon.

Second, Higher collection rates result in fewer beverage containers in the environment. After Hawaii, implemented a bottle bill in 2005, the number of beverage containers collected during Hawaii's International Coastal Cleanup fell from 23,471 in 2004 to 10,905 in 2007—a 53.5 percent drop over just three years.²⁰ States that implemented bottle bills in the 1970s and 1980s documented reductions in beverage container litter between 69 and 84 percent.²¹

Third, a modernized bottle bill can help alleviate spiraling single-stream recycling costs for towns and cities. PET plastic, aluminum, and glass beverage containers also make up more than 12 percent of single-stream recycling in Connecticut.²² According to survey data from the Connecticut Conference of Municipalities, towns and cities like South Windsor (\$73.00 per ton), Waterbury (\$75.00 per ton), Bridgeport (\$78.67 per ton), Fairfield (\$78.67 per ton), Litchfield (\$83.00 per ton), Westport (\$83.08 per ton), New Britain (\$85.00 per ton), and Warren (\$85.00 per ton) are paying exorbitantly for their single-stream recycling programs. Based on recycling data from DEEP, Fairfield is paying more than \$400,000 per year for recycling, and Waterbury and Bridgeport are paying more than \$500,000 per year. By diverting tonnage from the single-stream bin, a modernized bottle bill can make an impact on the bottom line for these towns and cities.

²⁰ Haw. Dep't of Health, *Report to the Twenty-Fifth Legislature*, 9 (2009).

²¹ Container Recycling Institute, *Litter Studies in Bottle Bill States*, <http://www.bottlebill.org/index.php/benefits-of-bottle-bills/litter-studies-in-bottle-bill-states>.

²² See DEEP, *supra* note 4, at 4-7.

B. Improved Organic Waste Law

An improved organic waste law offers Connecticut a pathway to significantly reduce the amount of waste it incinerates each year. In 2018—when Vermont’s organic waste ban applied to persons that generated more than 18 tons of organic waste per year—organic waste comprised 24% of Vermont’s municipal solid waste,²³ compared to Connecticut where organic waste comprises 33% of the waste stream. Banning all organic waste from the trash bin, could divert up to 800,000 tons of waste every year in Connecticut.

C. EPR for Packaging

Successful EPR for packaging programs help alleviate recycling and waste costs through dedicated producer funding and help incentivize reusable packaging and packaging that is more easily recyclable and uses more recycled content.²⁴ EPR for packaging in Connecticut can therefore help provide relief from skyrocketing waste and recycling costs and, by incentivizing smarter packaging, help divert some of 900,000-plus tons of yearly packaging waste.

D. Statewide Unit-Based Pricing

Implementing SMART statewide would significantly reduce Connecticut’s municipal solid waste in a relatively short time. A 40-60% reduction in waste would offer immediate benefits to the communities near incinerators and to the towns, cities, and residents paying exorbitant waste tipping fees.

4. Would you be interested or willing to present to the Coalition or a Coalition working group on solutions you've highlighted, or is there another speaker or organization that would be helpful for the Coalition to hear from on this topic?

Yes. CLF would be more than happy to present to CCSMM or any of its working groups on the legislative solutions highlighted in this document.

5. DEEP can play an important role in advancing sustainable materials management solutions, including: issuing RFPs for long-term energy contracts to support anaerobic digestion facilities; providing grants for collection trucks powered by compressed natural gas (CNG) or electricity through the Volkswagen settlement; employing different approaches to permitting innovative technologies; and streamlining permitting processes. Are there things that DEEP should do differently in its approach to any of

²³ Vermont Department of Environmental Conservation, *Vermont’s Universal Recycling Law*, <https://dec.vermont.gov/waste-management/solid/universal-recycling>.

²⁴ NEWMOA, *supra* note 11, at 4.

the above roles/functions, that would better support sustainable materials management in Connecticut?

DEEP can further support efforts to implement Zero Waste solutions in Connecticut by supporting and advocating for the pieces of legislation discussed in these comments. Moreover, DEEP, and CCSMM, should continue to coordinate with the Connecticut Zero Waste Coalition, the Connecticut Coalition for Environmental Justice, and other Environmental Justice leaders to ensure that this process reflects the needs of, and has a positive impact on, communities throughout Connecticut.

With respect to the specific solutions discussed in these comments, DEEP can buttress efforts to improve Connecticut's food waste diversion by offering grants to improve composting capacity. In 2018, for example, the Vermont Agency of Natural Resources made available \$975,000 in grants to support organics diversion infrastructure.²⁵ Similar grants in Connecticut would help build out the additional infrastructure necessary to support a universal organic waste ban.

6. Are there any solutions that you would like the Coalition to know about that do not fit within the Focus Areas above?

In addition to the legislative solutions outlined above, CCSMM should support legislation in Connecticut that will further restrict, or ban, unrecyclable plastic products including, but not limited to: single use plastic shopping bags, polystyrene food and beverage packaging, and single use plastic straws and stirrers. In 2015, Connecticut threw away more than 28,000 tons of plastic bags and food-grade polystyrene.²⁶ These products cannot be recycled, and when they end up in the single-stream bin, they can damage sorting equipment. Connecticut has implemented an effective fee on single-use plastic shopping bags, but it is time for the state to go further and outright ban a wider range of unrecyclable single-use plastic items.

7. Are there are any aspects of the Focus Areas, listed above, that the Coalition should not consider (and if so, why)?

CCSMM should not consider any supposed solutions that rely on high-heat waste treatment such as gasification, pyrolysis, plasma arc, "waste-to-fuel," or chemical recycling. These technologies pose the same health and environmental risks as conventional waste incineration, and they have a track record of failures when used to process municipal solid waste.²⁷ Burning waste endangers

²⁵ See Vermont Agency of Natural Resources, *supra* note 9.

²⁶ See 2015 Statewide Waste Characterization Study, *supra* note 4, at 3-5.

²⁷ See generally Neil Tangri & Monica Wilson, *Waste Gasification & Pyrolysis: High Risk, Low Yield Processes for Waste Management* (2017), <https://www.no-burn.org/wp-content/uploads/Waste-Gasification-and-Pyrolysis-high-risk-low-yield-processes-march-2017.pdf>.



public health and the environment,²⁸ and pursuing “alternative” methods of incineration will only trap Connecticut in the same cycle of environmental injustice that has for decades disproportionately impacted communities in Hartford and Bridgeport. CCSMM and DEEP must view MIRA’s shutdown as an opportunity to pursue a Zero Waste path and must not allow Connecticut to repeat the mistakes of the past.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Budris".

Kevin Budris
Staff Attorney, CLF Zero Waste Project

²⁸ See Ahmina Maxey, *What’s Wrong With Burning Our Trash, Anyway?* (2018), <https://www.clf.org/blog/whats-wrong-with-burning-our-trash-anyway/>.