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PRODUCT STEWARDSHIP POLICY

NATIONAL SOLID WASTES MANAGEMENT ASSOCIATION

January 5, 2012

The National Solid Wastes Management Association supports environmentally protective and cost efficient solid waste and recycling. “Product stewardship” laws are being promoted as a way to increase recycling while also establishing a new way to fund recycling programs. Product stewardship laws may increase the safe management of some products, in particular those with toxic constituents. Nonetheless, these laws should be carefully designed and implemented to ensure that products enjoy the most cost effective, innovative, efficient and environmentally protective management systems.

Selection of products for legislatively mandated product stewardship should be based on a comprehensive life cycle analysis. Any new programs must result in enhanced environmental protection at no additional cost to taxpayers or consumers. Any new programs must take place in a fully competitive marketplace with no anti-trust immunity for product stewardship organizations. Finally, we believe that a successful product stewardship system will be a shared responsibility among manufacturers, retailers, government, consumers and the private and public sector recycling and solid waste industry.

Introduction

Americans are concerned that recycling has reached a plateau. For the last two decades recycling grew rapidly as collection programs spread across the country. Yet in the last three years, fewer communities are launching new programs and multi-family housing and small businesses continue to pose significant collection challenges. Traditional recyclables such as products and packages made from paper, metal, glass and plastic continue to supply most of the collected recyclables. Batteries, carpet, electronic products, paint and other special or multi-material products are proving to be harder to collect and recycle.

In response, “product stewardship” or “extended producer responsibility” legislation is being promoted as a means of capturing and recycling these more challenging products and increasing the recycling of more traditional recyclables. The fundamental idea behind these laws is that manufacturers should be responsible for the end-of-life management of their products.

As of November, 2011, 32 states have passed 70 product stewardship laws. Most of these laws cover single products that contain hazardous constituents such as mercury-containing thermostats and automobile switches; products that are hazardous if mismanaged in recycling or disposal, such as electronics products; or products that are “harder” to recycle such as paint and carpets. “Framework” laws are being promoted as a way to make it easier to extend stewardship to other products.

Product stewardship laws may increase the safe management of some products, in particular those with toxic constituents. Nonetheless, these laws should be carefully designed and implemented to ensure that the most cost effective, innovative, efficient and environmentally protective management systems are available for all products.

Manufacturers Responsibilities

As a first step, manufacturers can help lower the cost of recycling by making their products easily recyclable. For instance, reducing the number of materials in a multi-material product increases its recyclability as does making the components in a multi-component product easy to disassemble. Manufacturers can create expanded markets for recyclables by using recycled content materials.

Shared Responsibilities

Nonetheless, we recognize that a manufacturer’s expertise is in creating products with a specific use that meet consumers’ needs. They do not have expertise in the end-of-life management of these products. We do. Equally importantly, state and local governments have the responsibility to set the appropriate policy and goals for recycling and waste management to ensure that both take place within a robust structure of environmental and safety standards.

Therefore, a successful product stewardship system will be a shared responsibility among manufacturers, retailers, government, consumers and the private and public sector recycling and solid waste industry, working together and using their expertise to provide America with a sustainable recycling and waste management system. The objective of this system will be to reduce, reuse and recycle as much of the waste stream as economically viable while minimizing environmental impacts.

Product selection: Life Cycle Analysis

Products designated for product stewardship should be selected solely based on the results of a comprehensive Life Cycle Assessment that completely reviews the management of the product from cradle to grave. These assessments should focus first on products with toxic or hazardous constituents or products that can create environmental or public health harm if mishandled in recycling or disposal systems. If a product is recommended for product stewardship, the life cycle assessment must show that this designation will lead to less environmental impact and a higher recycling rate at a lower cost than enhancements to the existing management systems. If a product is selected for a disposal ban, a recycling plan with existing markets must be in place before that ban goes into effect.

The life cycle assessment must include a comparison with the environmental and cost impact of current recycling and waste management systems and proposed alternatives. Americans benefit greatly from a consolidated recycling and solid waste collection system. Environmental impact is minimized, recycling has a lower cost and recycling rates are increased when generators can put their recyclables at the curbside to be collected by one truck. The life cycle assessment must take into account the environmental impact of a disaggregated collection system in which the generator is required to return different products to multiple collection points or a single purpose truck is required to collect a designated item.

The life cycle assessment must take into account additional solid waste and recycling costs incurred by a product stewardship law. Americans benefit from a cost efficient recycling and waste management system. In many cases, this cost is not part of the tax base, but is paid separately as a fee or a contract cost with the collector.

The life cycle assessment must also consider whether markets exist for any designated materials and ensure that markets are in place before designation goes into effect. We need to ensure that product stewardship laws do not lead to the dumping of those products in so-called recycling facilities in third world countries where they are managed without regard to human health or the environment.

Preserve competition, lower costs

Product stewardship should not lead to an increase in the cost of recycling or waste management. A competitive waste and recycling services market guarantees that the cost of recycling will remain reasonable. If a product stewardship organization does not competitively bid for service providers, or establishes an inflexible take back program which denies the manufacturer's or service provider's ability to be innovative, consumers will be faced with an unnecessarily expensive program. Product stewardship organizations must honor existing collection or processing contracts or

other legal relationships between recyclers and local governments. Finally, the process of selecting service providers must be fully transparent and should follow state public procurement requirements.

Product stewardship organizations: antitrust and other considerations

State law must not give antitrust exemptions for manufacturers or product stewardship organizations in the establishment or management of product stewardship systems. Instead, these organizations must be fully transparent with all records open to public review and subject to state oversight.

Product stewardship programs in this and other countries incur costs, including that of their internal bureaucracy and the expense of public sector oversight. These costs must be completely transparent so that the consumer knows them, understands their benefits and can make a fully informed buying decision.

“Framework” legislation

“Framework” legislation for product stewardship can lead to reduced oversight, inefficiency and inflated costs. Framework legislation should ensure that designated products will only be approved, after public hearings, by the state legislature. Designation by a state agency is not enough. Any statewide framework law must protect existing regulated or contracted collection systems and processing contracts for designated materials and must protect the ability of private companies to continue to collect and process those materials without interference by the product stewardship bureaucracy. The surest way to artificially drive up the cost of recycling is to require all consumers to use only the system designated by the state or a product producer organization.

Conclusion

Product stewardship laws can, under the right circumstances, provide a step forward in managing products whose improper recycling or disposal can cause public health or environmental problems. We support a system which provides Americans with the most environmentally and cost efficient recycling and waste management system.

The National Solid Wastes Management Association is a trade association representing private sector solid waste and recycling companies. The private sector collects and processes the majority of materials that are recycled in America today! Recycling is a core part of our industry, essential to protecting our environment and conserving natural resources.